

**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
11:00 a.m. May 20, 2008

First Floor Board Room  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Approve the minutes of the regular meeting on May 13, 2008

**PROCLAMATION**

- Drug Court Week

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

\* Consent Items

1. \*SUB 2007-45-Plat of Northeast Baseball Complex Addition located on the north side of 29th Street North and on the west side of Greenwich Road. (District II)

RECOMMENDED ACTION: Approve the documents and plat and authorize the necessary signatures for approval of the plat and as owners of the site.

2. \*VAC2008-00009 - Request to vacate a portion of a platted setback. Generally located on the northeast corner of 71st Street South and Green Street. (District III)

RECOMMENDED ACTION: Approve the Vacation Order, and authorize the necessary signatures.

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

\*Consent items

3. \*American Bonanza Society - Amendment No. 2.

RECOMMENDED ACTION: Approve the Amendment and authorize the necessary signatures.

4. \*Passenger Facility Charge (PFC) Application.

RECOMMENDED ACTION: Receive and file the PFC application.

5. \*Purchase of Liquid Deicer Truck, Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Approve the capital project budget and authorize staff to solicit bids.

6. \*Colonel James Jabara Airport, Airfield Electrical Equipment Replacement.

RECOMMENDED ACTION: Approve the supplemental agreement and authorize the necessary signatures. It is also recommended that the Wichita Airport Authority approve the grant application and receipt of funds, and authorize the Director of Airports to sign all the documents related to the grant.

7. \*Tenant Facility Improvements, 1761 Airport Road, Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Approve the project and the contract and authorize the necessary signatures.

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**CONSENT AGENDA**

8. Report of Board of Bids and Contracts dated May 19, 2008.

RECOMMENDED ACTION: Receive and file report; approve Contracts; authorize necessary signatures.

9. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption off Premises)</u>
Mdarifur Rahman	Gulmohur Inc dba KC Gas and Grocery	1161 North Broadway
Craig Ellis	CD Enterprises dba Phillips 66/Fuel Up	550 North Webb Road
<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Alfonso F. Amaro	Mexico Café*	555 West Douglas

\*General/Restaurant 50% or more of gross receipts derived from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

10. Preliminary Estimates:

- a. Lateral 1, Main 21 Four Mile Creek Sewer to serve Cambria Addition (north of Pawnee, east of 143rd Street East) (468-84480/744271/480960) Does not affect existing traffic. (District II) - \$281,840.00
- b. Water Distribution System to serve Mesa Verde Addition (south of 37th Street North, east of Meridian) (448-90261/735419/470092) Does not affect existing traffic. (District VI) - \$42,000.00
- c. Toben Street and 40th Street North from 39th Street North to Webb Road to serve Webb Business Park Addition (north of 37th Street North, west of Webb) (472-84611/ 766197/490215) Does not affect existing traffic. (District II) - \$772,500.00
- d. Water Distribution System to serve Power CDC Addition (north of 26th Street North, west of Grove) (448-89823/735387/470060) Traffic shall be maintained during construction using flagpersons and barricades. (District VI) - \$66,000.00
- e. Cherry Creek Court from the east line of Cherry Creek in Sierra Hills to and including cul-de-sac; Cherry Creek Court from the north line of Cherry Creek in Sierra Hills to and including cul-de-sac; and Cherry Creek Court from the north line of Cherry Creek in Sierra Hills to and including the Cul-de-sac the north line of Sierra Hills Addition to serve Sierra Hills Addition (east of 127th Street East, north of Pawnee) (472-84690/766204/490222) Traffic shall be maintained during construction using flagpersons and barricades. (District II) - \$204,000.00
- f. The cost of construction of Lateral 10, Main 4 Northwest Interceptor Sewer to serve Silverton Addition (north of 13th Street North, west of 135th Street West). (District V) (468-84243/744233/480-921) – Total Estimated Cost \$372,780.00
- g. The cost of construction of Lateral 15, Main 4, Northwest Interceptor Sewer to serve Silverton Addition (north of 13th Street North, west of 135th Street West). (District V) (468-84345/744234/480-922) – Total Estimated Cost \$164,980.00
- h. The cost of Athenian and Athenian Court to serve Valencia Addition (south of 53rd Street North, east of Meridian). (472-84473/766137/490-155) (District VI). – Total Estimated Cost \$205,440.00

RECOMMENDED ACTION: Receive and file.

11. Petitions for Public Improvements:

- a. Storm Water Drain in Cambria Addition, east of 143rd Street East, north of Pawnee. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

12. Deeds and Easements:

- a. Dedication dated March 31, 2008 from Schupbach Investments LLC for a tract of land lying in Lots 48, 50, 52, 54, 56, 58 on Guy now Piatt and in Lots 47, 49, 51, 53, 55, 57 on Strong now Ash, all in Logan Addition to Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- b. Drainage Easement dated March 18, 2008 from Krug South Residential LLC, a Kansas limited liability company for a tract of land lying in Lots 71 and 72, 1, Block 2, Krug South Addition to Wichita, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- c. Utility Easement dated March 26, 2008 from The Salvation Army, An Illinois Corporation for a tract of land lying in Lot 1, Block 1, Camp Hiawatha Addition to the City of Wichita, Sedgwick County, Kansas , (OCA # 607861). No Cost to City
- d. Drainage and Utility Easement dated April 16, 2008 from Webb Business Park, L.L.C. for a tract of land lying in Lot 2, Block 1, Webb Business Park, An Addition to Wichita, Sedgwick County, Kansas , (OCA # 607861). No Cost to City
- e. Easement dated April 15, 2008 from Gateway Center, LLC, for a tract of land lying in Lot 12, 1, Block 1, The Gateway Center 2nd Addition to Wichita, Sedgwick County, Kansas , (OCA # 607861). No Cost to City

(Item 12 continued)

- f. Utility Easement dated February 15, 2008 from Dugan of Wichita, LLC, a Kansas limited liability company for a tract of land lying in Lot 2, Block 2, Dugan Industrial Third Addition, Sedgwick County, Kansas, (OCA # 607861). No Cost to City
- g. Drainage Easement dated January 4, 2007 from West End Acquisition Company for a tract of land lying in a portion of the NW ¼ of Section 9, Township 27 South, Range 1 East of the 6th P.N. Sedgwick County, Kansas (OCA # 133116). No Cost to City

RECOMMENDED ACTION: Accept documents.

13. Consideration of Street Closures/Uses.

- a. Victory in the Valley East Meets West Run/Walk, May 31, 2008, 8:00 am – 9:30 am.  
(Districts IV and VI)
  - 2nd Street, Waco to Mclean, west bound lanes
  - Seneca Street, Central to McLean, north bound lanes

RECOMMENDED ACTION: Approve the request subject to: hiring off-duty certified law enforcement officers as requires; obtaining barricades to close the streets in accordance with requirements of Police, Fire, and Public Works Department; and Certificate of Liability Insurance on file with the Community Events Coordinator.

14. Agreements/Contracts:

- a. Staking in Wood North and Greenwich Business Center Additions, south of 29th Street North, west of 127th Street East. (District II)-Supplemental

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

15. Design Services Agreements:

- a. 31st Street South Bridge at Glenn. (District IV)
- b. Silverton Addition, north of 13th Street North, west of 135th Street West. (District V)
- c. Cedar View Village Addition, east of Greenwich, south of Kellogg. (District II)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

16. Minutes of Advisory Boards/Commissions

District V Advisory Board, March 3, 2008  
District V Advisory Board April 7, 2008  
Board of Code Standards and Appeals, April 7, 2008  
Wichita Airport Advisory Board, April 7, 2008

RECOMMENDED ACTION: Receive and file.

17. Repair or Removal of Dangerous and Unsafe Structures. (Districts I, II and III)

<u>Property Address</u>	<u>Council District</u>
a. 1314 North Lorraine	I
b. 435 North Piatt	I
c. 1006 North Grove	I
d. 1338 North Green	I
e. 916 North Harding	I
f. 14621 East Sport of Kings	II
g. 4338 East Wilma	III

RECOMMENDED ACTION: Adopt the resolutions to schedule public hearings before the City Council on July 8, 2008 at 09:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

18. Report on Claims Allowed for April 2008:

<u>Name of Claimant</u>	<u>Amount</u>
Westar Energy	\$1,015.66
Westar Energy	\$3,706.29
Westar Energy	\$8,026.41
Marilyn Vasquez	\$283.29
Benjamin George	\$1,228.69
Troy Palmer	\$468.82
Westar Energy	\$1,484.67
Angela Green	\$625.39
Nichollette Engels	\$291.40

\*\* Settled for lesser amount than claimed.

RECOMMENDED ACTION: Receive and File.

19. City of Wichita Employees' Deferred Compensation Plan, Participation Agreement for the Putnam Stable Value Fund Amendment to Section 457(b) Trust Agreement with Wells Fargo Bank, N.A.

RECOMMENDED ACTION: Approve the Agreements and authorize the Mayor to sign.

20. Request for Exception to Charter Ordinance Number 198.

RECOMMENDED ACTION: Approve the Change Order, adopt the Resolution, and authorize the necessary signatures.

21. Providing Local Technology Training and Computer-Based Training – Selection of Vendors.

RECOMMENDED ACTION: Approve the contracts to PCT New Horizons INC and ExecuTrain of Wichita LLC and authorize the necessary signatures.

22. Access to Jobs Vendor Agreement with American Cab Company.

RECOMMENDED ACTION: Approve the Vendor Agreement and authorize the necessary signatures

23. Access to Jobs Vendor Agreement with ABC Taxi Cab Company.

RECOMMENDED ACTION: Approve the Vendor Agreement and authorize the necessary signatures

24. Dedication of Parcel near Washington and Dewey. (District III)

RECOMMENDED ACTION: Approve the transfer and authorize the necessary signatures.

25. Watershed Protection Plan - Memorandum of Understanding.

RECOMMENDED ACTION: Approve the Memorandum of Understanding and authorize the necessary signatures.

26. Budget Increase - Transit Operating Budget.

RECOMMENDED ACTION: Approve an increase to the 2008 Adopted Transit Fund expenditure budget in an amount not to exceed \$210,000.

27. Amendment to Banking Services Agreement.

RECOMMENDED ACTION: Approve the amendment Agreement for banking services and authorize the Mayor to sign.

28. Joint Funding Agreement - U.S. Geological Survey.

RECOMMENDED ACTION: Approve the expenditures; authorize the Joint Funding Agreement; and authorize the necessary signatures.

29. Application for Economic Development Initiative Funds. (District I)

RECOMMENDED ACTION: Approve the HUD Economic Development Initiative (EDI) grant application and authorize the necessary signatures.

30. 2008 Street Rehabilitation Program. (Districts I and IV)

RECOMMENDED ACTION: Approve the project and place the Ordinance on First Reading.

31. Resolution Amending Public Hearing on Building Façade Project-in the Core Area. (District VI)

RECOMMENDED ACTION: Adopt the resolution amending the date of the public hearing on special assessments for the Wichita Executive Center (SCTelcom Building) façade improvements and authorize the publication of the resolution.

32. Second Reading Ordinances: (First Read May 13, 2008)

a. Neighborhood Nuisance Enforcement Code Amendments Chapter 8.01 of the Code of the City of Wichita.

An ordinance amending sections 8.01.010, 8.01.040, 8.01.050, 8.01.060, 8.01.070 and 8.01.130, creating sections 8.01.052, 8.01.055, 8.01.065, 8.01.135 and 8.01.175 of the code of the city of Wichita, Kansas, and repealing the originals of Sections 8.01.010, 8.01.040, 8.01.050, 8.01.060, 8.01.070, 8.01.080, 8.01.090, 8.01.130, 8.01.150, 8.01.160, 8.01.170 and 8.01.180, of the code of the city of Wichita, Kansas, all pertaining to nuisances

b. Graffiti Ordinance Code Amendments Chapter 5.37 of the Code of the City of Wichita.

An ordinance amending section 5.37.060 of the code of the city of Wichita, Kansas, pertaining to graffiti and repealing the originals of said sections.

c. Traffic Ordinance Amendments (OCI parking enforcement authority) Chapter 11.52.035 of the Code of the City of Wichita.

An ordinance creating section 11.52.035 of the code of the city of Wichita, Kansas, pertaining to unlawful parking.

d. CUP2008-00005 and ZON2008-00007 – Creation of DP-311 Moorings Plaza II Commercial and Residential Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”) and NR Neighborhood Retail (“NR”). Generally located south of 53rd Street North and west of North Meridian Avenue. (District VI)

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick county unified zoning code, section v-c, as adopted by section 28.04.010, as amended.

e. ZON2008-14-Zone change from LC Limited Commercial to OW Office Warehouse; generally located south of 53rd Street North and west of Arkansas. (District VI)

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

(Item 32 continued)

- f. SUB 2007-98 -- Plat of Mike Steven Motors Addition located west of Rock Road and on the south side of Kellogg. (District II)

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick county unified zoning code, section v-c, as adopted by section 28.04.010, as amended.

- g. A08-05R-Request by John Philbrick, of the Property Management Division, and David Warren, of Wichita Water Utilities, on behalf of the City of Wichita to annex land generally located north of 37th Street North, between 135th Street West and 119th Street West. (District V)

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A08-05)

- h. A08-06R-Request by John Philbrick, of the Property Management Division, and Doug Kupper, of the Park and Recreation Department, on behalf of the City of Wichita to annex land generally located north of US-54/Kellogg, between 135th Street West and 119th Street West. (District V)

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A08-06)

- i. A08-08R-Request by John Philbrick, on behalf of the City of Wichita, to annex land generally located east of Rock Road, between 39th Street South and 31st Street South. (District II)

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A08-08)

- j. A08-09R-Request by Alan S. Girrens to annex land generally located west of 119th Street West, between Pawnee Avenue and 31st Street South. (District IV)

An ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the city of Wichita, Kansas. (A08-09)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

\*\*\*Workshop to follow\*\*\*

**RESTRICTIVE COVENANT**

This covenant, executed this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

W I T N E S S E T H: That,

WHEREAS, the undersigned is in the process of platting that certain real property to be known as Northeast Baseball Complex Addition, an addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by The City of Wichita regarding public access onto the reserve being platted.

NOW, THEREFORE, the undersigned does hereby subject Northeast Baseball Complex Addition, an addition to Wichita, Sedgwick County, Kansas, to have the following covenants and restrictions.

1. Reserve A may be used for public access for turnaround movements.
2. The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

This covenant runs with the land and is binding on future owners and assigns.

IN WITNESS WHEREOF THIS covenant has been executed by the undersigned as its act and deed upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**CITY OF WICHITA**

BY: \_\_\_\_\_  
Carl Brewer, Mayor

STATE OF KANSAS        ) ss  
SEDGWICK COUNTY     )

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me a Notary Public in and for said State and County, came Carl Brewer, Mayor, City of Wichita, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Notary Public: \_\_\_\_\_

(SEAL)

My Appointment Expires: \_\_\_\_\_

## ACCESS AGREEMENT

THIS ACCESS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between City of Wichita, of the first part, and City of Wichita, of the second part.

WHEREAS, the first party is the owner of certain real property described as Lot 1, Block 1, Northeast Baseball Complex Addition in Wichita, Sedgwick County, Kansas; and

WHEREAS, the second party is the owner of certain real property described as Lot 7, Block 1, Regency Park Addition, and

WHEREAS, the both parties wish to establish a cross-lot circulation agreement for the benefit of all lots in both additions.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is acknowledged, all owners hereby state and declare as follows:

Both parties grant, to all future owners, their agents, assigns, lessees, customers, invitees, licensees, tenants and employees a nonexclusive easement over, through, and around the common areas for driveways, walkways, ingress and egress, parking motor vehicles, and the loading and unloading of commercial and other vehicles. All entrances, exits, aiseways and driveways shall be unobstructed so that vehicular and pedestrian traffic may easily move to and from adjoining lots within the common area and the adjacent streets.

The declarations, covenants, and such undertakings made herein shall run with the land and shall be binding upon any subsequent owners and their successors and assigns and shall be superior and paramount to the rights of each subsequent owner of aforesaid Lots.

This easement shall not be modified in any respect whatsoever, or rescinded, in whole or in part, except with the written consent of the owners at the time of rescission or modification.

IN WITNESS WHEREOF: The owners have signed these presents the day and year first above written.

**CITY OF WICHITA**  
**As to Lot 1, Block 1, Northeast Baseball Complex Addition**

By: \_\_\_\_\_  
Carl Brewer, Mayor

STATE OF KANSAS    )  
                                  )ss:  
SEDGWICK COUNTY    )

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Carl Brewer, Mayor, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for and on behalf, and as the act and deed of said North Ridge Village Addition of Wichita.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

(Seal)

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

**CITY OF WICHITA  
As to Lot 7, Block 1, Regency Park Addition**

By: \_\_\_\_\_  
Carl Brewer, Mayor

STATE OF KANSAS    )  
                                  )ss:  
SEDGWICK COUNTY    )

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Carl Brewer, Mayor, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for and on behalf, and as the act and deed of said North Ridge Village Addition of Wichita.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

(Seal)

\_\_\_\_\_  
Notary Public

My Appointment Expires: \_\_\_\_\_

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members  
**SUBJECT:** SUB 2007-45 -- Plat of Northeast Baseball Complex Addition located on the north side of 29<sup>th</sup> Street north and on the west side of Greenwich Road. (District II)  
**INITIATED BY:** Metropolitan Area Planning Department  
**AGENDA ACTION:** Planning (Consent)

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (12-0)

**Background:** This site, consisting of one lot on 58.42 acres, is located within Wichita’s city limits and is zoned SF-5 Single-family Residential.

**Analysis:** Municipal services are available to serve the site. A Restrictive Covenant has been submitted to permit public access onto the reserve for turnaround movements. An Access Agreement (Cross-lot Circulation Agreement) has been submitted to assure internal vehicular movement between this property and the Regency Park Addition to the south.

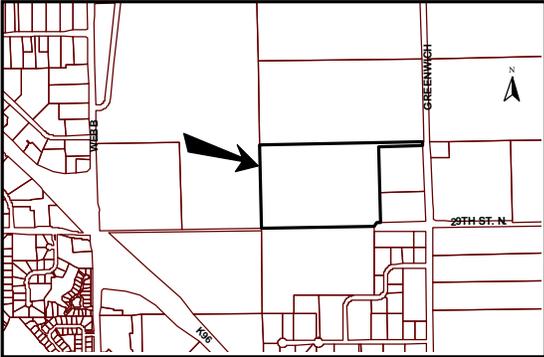
This plat has been reviewed and approved by the Metropolitan Area Planning Commission, subject to conditions. The City of Wichita is the owner of this site.

**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The Restrictive Covenant and Access Agreement will be recorded with the Register of Deeds.

**Recommendations/Actions:** Approve the documents and plat and authorize the necessary signatures for approval of the plat and as owners of the site.



City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00009 - Request to vacate a portion of a platted setback. Generally located on the northeast corner of 71<sup>st</sup> Street South and Green Street. (District III)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** The applicant proposes to vacate the north 18 feet of a portion of the platted 30 foot street side yard setback, making a 12 foot setback in that portion. The zoning of the subject site is SF-5. The UZC requires a minimum of a 15 foot street side yard setback for the SF-5 zoning district. If this was not a platted setback, the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 15 foot street side yard setback by 20%, resulting in a 12 foot setback, which is what the applicant is requesting. There is an encroaching concrete slab in a portion of the platted setback on which the applicant proposes to build a garage. There is a platted 5 foot utility easement within the remaining setback. There are no utilities within the described portion of the platted setback. The Applewood Farms Addition was recorded with the Register of Deeds on June 9, 1981.

**Analysis:** The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

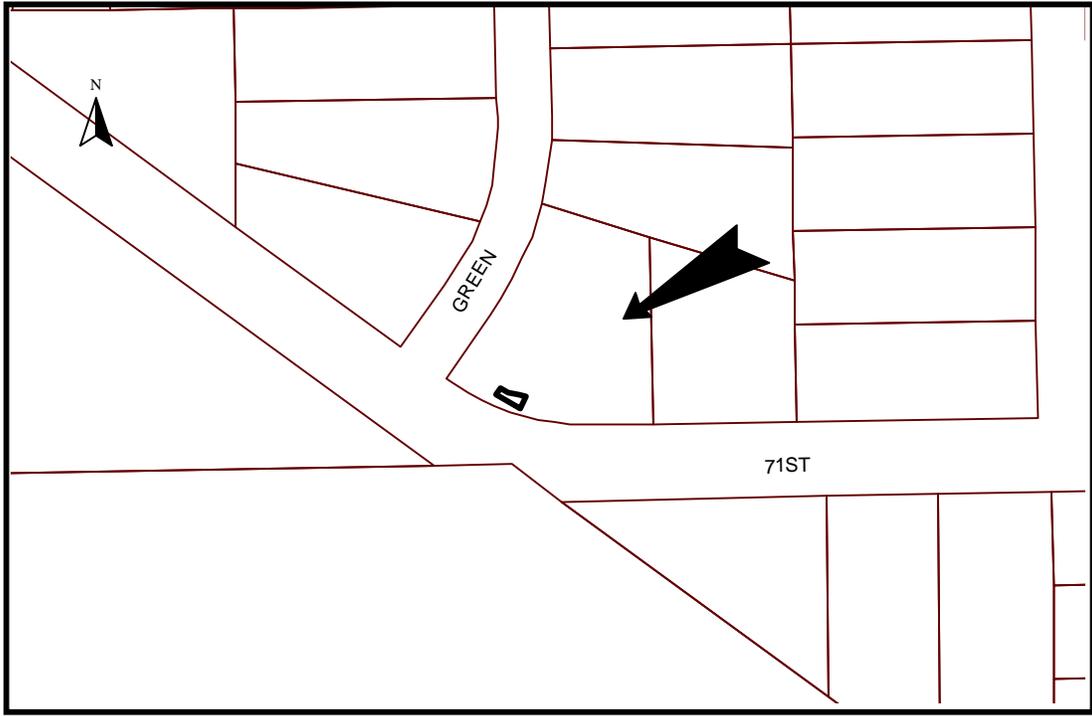
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.



AMENDMENT NO. 2

By and Between

THE WICHITA AIRPORT AUTHORITY  
Wichita, Kansas

and

AMERICAN BONANZA SOCIETY AIR SAFETY FOUNDATION

for

Use of Facility – 1922 Midfield Road  
Wichita Mid-Continent Airport

THIS AMENDMENT NO. 2, made and entered into this May 20, 2008, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and AMERICAN BONANZA SOCIETY AIR SAFETY FOUNDATION, hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, Lessor and Lessee have entered into an Agreement dated December 7, 1981, for the purpose of constructing a facility on Wichita Mid-Continent Airport for aviation purposes or purposes incidental or related thereto, including administrative and general offices of the American Bonanza Society; and

WHEREAS, the Agreement was modified by Amendment No. 1 dated April 22, 1987 for the purpose of adding land for expansion purposes; and

WHEREAS, Lessee is desirous of further amending the Agreement for the purpose of exercising its 10-year renewal option, establishing facility rental, and modifying the leased area.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1. **TERM.** Lessee has exercised its option to renew the Agreement for 10 years for the Term of January 1, 2008 through December 31, 2017.
  
2. **PREMISES.** The premises leased to Lessee pursuant to the Agreement consist of the facility together with land area on which the building is situated, as reflected on Exhibit "A" attached hereto and made a part hereof.
  
3. **SURRENDER OF LAND.** Effective January 1, 2008, Lessor agrees to allow Lessee to relinquish the use and lease of 22,691.4 sq.ft. of land identified as Tract 1922A and reflected on Exhibit "A" of Amendment No. 1. Both parties agree that rent shall cease as of December 31, 2007 for Tract 1922A. Lessee shall not be reimbursed for any land rental or special assessments paid by Lessee for Tract 1922A through December 31, 2007.
  
4. **RENTAL.** Article 4, "Rental", of the Agreement is hereby modified as follows:  
 Building rental for the facility, encompassing 3,109 sq.ft., shall be paid at the rate of 50% of fair market rental value. The full fair market rental value for the period 01/01/08 through 12/31/12 is \$8.50/sq.ft. per year, and \$9.56/sq.ft. for the period 01/01/13 through 12/31/17. Based upon 50% of fair market value, rental to be paid is \$4.25/sq.ft. per year (\$13,213.25) and \$4.78/sq.ft. per year (\$14,861.02) for the respective terms, less land rental during these periods.

Facility rental during the extension shall be as follows:

<u>Year</u>	<u>Rate Per Sq. Ft.</u>	<u>Annual</u>	<u>Monthly</u>
01/01/08 – 12/31/11	\$3.7756	\$11,738.31	\$978.19
01/01/12 – 12/31/12	\$3.7391	\$11,624.85	\$968.74
01/01/13 – 12/31/16	\$4.2691	\$13,272.62	\$1,106.05
01/01/17 – 12/31/17	\$4.2326	\$13,159.16	\$1,096.60

Land rental for Tract 1922, containing 22,691.4 sq.ft., shall increase ½ cent each five years.  
 Land rent during the extension shall be as follows:

<u>Year</u>	<u>Rate Per Sq. Ft.</u>	<u>Annual</u>	<u>Monthly</u>
01/01/08 – 12/31/11	\$.065	\$1,474.94	\$122.91
01/01/12 – 12/31/16	\$.07	\$1,588.40	\$132.37
01/01/17 – 12/31/17	\$.075	\$1,701.86	\$141.82

5. **LESSOR’S RIGHTS & PRIVILEGES.** Lessor expressly reserves from the premises:

- (a) Mineral Rights. All gas, oil and mineral rights in and under the soil;
- (b) Air Space. A public right of flight through the air space thereabove;
- (c) Navigational Aids. The right to install maintain and modify and/or permit others to install, maintain and modify on the premises navigational aids; and
- (d) Utility Right-of-Way. The right to install, maintain and modify utilities and to grant utility rights of way to others over, under, through, across or on the premises located within 25 feet of the outside boundary lines; and
- (e) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the Premises. Revenue-producing communication systems or systems not directly applicable to Lessee’s operations on the Premises are prohibited except upon the specific approval of the Lessor.

Provided that exercise by Lessor of any such reserved rights (a) through (d) will be without expense to the Lessee and will not unreasonably or materially interfere with Lessee's use of the premises and will not delay Lessee in the exercise of its rights or the performance of its duties hereunder or increase the costs of such performance. Lessor shall give Lessee notice in writing of the exercise of its rights under (c) and (d).

6. **LESSEE’S RIGHTS & PRIVILEGES.** Lessee shall have the following rights and privileges on the Airport:

- (a) The right to install, operate, maintain, repair and store upon the premises all equipment necessary for the conduct of Lessee’s business.

(b) The right of ingress and egress to and from the premises, which rights shall extend to Lessee's employees, invitees and guests, subject, however, to all reasonable security regulations; and

(c) The right in common with others authorized to do so to use the common areas of the Airport.

7. **DESIGN & CONSTRUCTION.** In the event Lessee constructs additional improvements on the leased premises during the term of any extensions, Lessee agrees to and shall construct the improvements on the premises subject to the terms and conditions herein set forth. Lessee shall cause the construction of the improvements to be coordinated with time schedules established by the Lessor should other construction be occurring at the Airport, which may be impacted by this project. Once the permits are obtained and the Director of Airports has approved the project, the Lessee has the right to enter the leased premises and begin construction.

Lessee agrees to cause facilities for Lessee's use to be constructed on the premises in accordance with plans and specifications to be prepared by Lessee and approved by Lessor. Plans and specification review submittals shall follow accepted practice for such deliverables; and the Lessor shall provide comments, as applicable, on each submittal. Lessor retains the right to ask for special submittals, as needed, to fully understand the proposed improvements. Facility floors and slabs shall follow nationally-recognized standards for design and construction such as the American Concrete Institute (ACI) 360R-92 and 302.1R-04, respectively. No above-ground wires shall be installed.

Lessee shall make displays and presentations as needed to boards, design councils, and other applicable bodies to explain the project and respond accordingly.

Lessee agrees (1) construction shall be administered, documented and observed on-site by professional architects or engineers to ensure compliance with the approved plans and specifications; (2) proposed construction changes to the approved plans and specifications shall be submitted to Lessor; (3) quality control testing shall be by an independent testing laboratory certified to provide services; (4) to provide Lessor, within 60 days following

occupancy of the facilities, a complete reproducible set of record drawings and an electronic file in a format usable by Lessor. Upon completion of the facility, Lessee shall furnish a Certificate of Completion to Lessor which states that (1) the improvements have been completed in accordance with the plans and specifications; (2) the improvements have been completed in a good and skilled manner; (3) no liens have been filed, nor is there any basis for the filing of such liens, with respect to the improvements; and (4) all improvements constituting a part of the project are located or installed upon the premises.

In the event of construction of such improvements, Lessee agrees to provide performance and labor and material payment bonds and statutory bonds with respect to the project contracts and in the full amount of the project contracts, made by the contractors thereunder as the principals and a surety company or companies qualified to do business in Kansas as surety. Such performance and labor and material payment bonds shall name the Lessee, Lessor, and the City of Wichita as insureds, as their respective interests may appear.

8. **ALTERATIONS, IMPROVEMENTS & CONSTRUCTION COSTS.** Article 5, “Construction”, of the Agreement shall be modified to include the following language:

Lessee shall have the right during the term hereof, at Lessee's expense, at any time and from time to time, to construct upon the premises such additional facilities and other fixed improvements as it may deem necessary or desirable in connection with its operation under this Agreement; provided, however, that Lessee shall first submit plans and specifications for such facilities to the Lessor for approval, which approval shall not be unreasonably withheld or unduly delayed. Lessee agrees to pay for all costs incurred in connection with the construction of said improvements, by making direct payment for all such costs as they are incurred. It shall be the responsibility of Lessee to file all necessary alteration and construction forms with the Director of Airports for submission to the Federal Aviation Administration for approval, as may be required.

All such alterations, additions, or improvements shall be performed in a workmanlike manner and shall not weaken or impair the structural strength, or lessen the value of the building and the premises, or change the purposes for which the building or any part thereof, may be used.

Any such alterations, additions, or improvements shall be erected at the sole cost and expense of Lessee, and Lessee shall have no right, authority, or power to bind Lessor or any interest of Lessor in the leased premises, for the payment of any claim for labor or material or for any charge or expense incurred in the erection, construction, operation, or maintenance of said improvements and premises. All alterations, additions, and improvements, except “trade fixtures”, put in at the expense of Lessee, shall remain upon and be surrendered with the premises as a part thereof, at any termination of this Agreement, for any cause, and shall become the property of the Lessor. Upon completion of additional fixed improvements, Lessee agrees to furnish Lessor with a verified statement of the total cost of the additional improvements.

9. **LANDSCAPING.** Lessee shall provide and install appropriate landside landscaping and screening, including lawn, shrubbery, trees, bushes, vines and other plantings and screening on the premises as a part of the construction of the improvements. All proposed landscaping plans and screening designs shall be submitted to the Director of Airports for review and approval. Lessee further agrees to provide any further landscaping that may be required, during the term hereof, by the Director of Airports for the purpose of screening from view any area of the premises.
  
10. **INSPECTIONS.** Lessor shall have the right at any reasonable time prior to the completion of the improvements or any additions to the improvements, to enter upon the premises for the purpose of inspecting the construction thereof, to determine whether or not the improvements are being constructed substantially in accordance with the plans and specifications. If at any time during the progress of such construction, it is determined that the improvements are not being constructed substantially in accordance with the plans and specifications, upon receipt of written notice from the Lessor, the Lessee shall make or cause to be made such reasonable alterations as may be required to cause the improvements to substantially conform to the plans and specifications.
  
11. **GRANTING OF EASEMENTS.** Lessee shall not, without the prior written approval of the Lessor (i) grant easements, licenses and other rights or privileges in the nature of easements

with respect to the land, or (ii) release existing easements, licenses, rights-of-way and other rights or privileges, and Lessee agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by Lessee of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, and (b) a written application signed by the Lessor requesting execution and delivery of such instrument, provided that, such grant or release is not detrimental to the proper conduct of the business of Lessee, and such grant or release will not impair the effective use or interfere with the efficient and economical operation of the facilities. Any payments or other consideration received by Lessor for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of Lessor.

12. **UTILITIES.** Article 11, “Utilities” of the Agreement is hereby superseded and replaced with the following language:

All utilities and utility services used by Lessee, in, on or about the premises shall be contracted for by Lessee, in Lessee’s own name and Lessee shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith. Lessee agrees to pay, as and when due and payable, all bills for utility services. Lessor shall not be liable to Lessee for damages arising out of any cessation or interruption of gas, water, electricity, telephone, or other utility service during the lease term or any extension thereon, unless said damages were caused by Lessor and/or its employees, agents or contractor’s negligence, acts of commission, or acts of omission.

Lessee agrees to pay for all utilities furnished through facilities owned by Lessor at the published rate established by Lessor and charged to other Lessees.

13. **MAINTENANCE & REPAIR.** Article 9, “Maintenance and Repair”, of the Agreement is hereby superseded and replaced with the following language:

Lessee, at Lessee's sole cost and expense, shall take good care of and maintain, repair and replace the premises and keep the premises and all parts thereof in good order, condition and repair, including, without limitation, (i) all alterations, the roof, foundation, footings and all structural and non-structural components thereof) and all other improvements located in, on or about the premises, (ii) all heating, plumbing, electrical, air-conditioning, mechanical and other systems, fixtures and equipment with respect to the premises and all other improvements located in, on or about the premises, (iii) utilities, and (iv) all common areas including, without limitation, lawns and planted areas, roadways, walks, parking lots, and loading areas.

Lessee, at its sole expense, shall at all times keep and maintain said premises and the fixtures and appurtenances thereto in a clean and sightly condition, free of trash, debris and obstructions; remove all snow and ice from the premises pavements and parking areas, and mow and trim all natural growth when necessary.

Lessor, its agents or employees, shall have the right to enter upon said premises at any and all reasonable times to inspect the condition of the same. Lessor shall give reasonable advance oral notice prior to entry except for emergencies. Should Lessee, refuse or neglect to maintain its leased premises as herein provided, Lessor shall have the right to perform such maintenance on behalf of and for the Lessee after thirty days written notice to Lessee. Any costs for such maintenance shall be paid for by Lessee, not later than thirty (30) days following demand by Lessor for such payment at Lessor's costs, plus twelve percent (12%).

14. **IMPOSITIONS.** Lessee shall, during the life of this Agreement, bear, pay and discharge, before the delinquency thereof, any and all impositions. In the event any impositions may be lawfully paid in installments, Lessee shall be required to pay only such installments thereof as become due and payable during the life of this Agreement as and when the same become due and payable. Lessor covenants that without Lessee's written consent it will not, unless required by law, take any action intended to cause or induce the levying or assessment of any imposition (other than special assessments levied on account of special benefits or other impositions for benefits or services uniformly imposed) which Lessee would be required to pay under this article and that should any such levy or assessment be threatened or occur

Lessor shall, at Lessee's request, fully cooperate with Lessee in all reasonable ways to prevent any such levy or assessment.

15. **INDEMNITY**. Article 8, "Indemnity and Insurance" of the Agreement is hereby superseded and replaced with the following language in this Article and Articles 19 and 20:

Lessee, shall protect, defend and hold Lessor and the City of Wichita and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the use or occupancy of the leased premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of Lessor. The Lessor shall give to Lessee reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or early termination of this Agreement.

Lessor shall protect, defend and hold Lessee and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), of any nature whatsoever arising out of or incident to this agreement and/or the Lessor's operation of the Airport or the acts or omissions of Lessor's officers, agents, employees, contractors, subcontractors, or licensees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of Lessee. The Lessee shall give to Lessor reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or early termination of this Agreement.

16. **INSURANCE**. Lessee agrees to maintain public liability insurance during the term hereof which protects the Lessor and City of Wichita, their officers, agents and employees, as

additional insureds, with terms and companies as approved by Lessor, which approval shall not be unreasonably withheld, in an aggregate amount of not less than \$1,000,000 per occurrence. In addition, Lessee shall maintain a Worker's Compensation and Employer's liability policy for limits of not less than the statutory requirement for Worker's Compensation, and \$500,000 Employer's Liability. Lessee agrees that in the event of future changes in the law and upon notice by the Lessor, the minimum levels of insurance required by this paragraph may be increased within the bounds of commercial reasonableness to the amount that may be required to provide coverage of the events of this paragraph.

Lessee agrees, prior to the commencement of this lease term, to provide Lessor with copies of all certificates evidencing that such insurance is in full force and effect, and stating the terms thereof. Such policy or certificate shall contain a clause providing thirty days' prior notice to the Lessor before any material change or cancellation is effective.

17. **FIRE AND EXTENDED COVERAGE INSURANCE.** Lessee, at its expense, throughout the term of this Agreement shall cause the improvements on the leased premises to be insured against loss or damage by fire and extended coverage at least equal to the full insurable value thereof and, if requested, shall furnish Lessor a certificate evidencing such insurance. The proceeds of any payments made under such insurance policy or policies shall be used to rehabilitate or reconstruct the insured facilities.

In lieu of the insuring of the premises by the Lessee against the loss or damage by fire and extended coverage, Lessee shall have the option to request that this facility be insured under the Lessor's blanket policy, and the Lessee agrees to pay the premiums for the cost of insurance on this facility, plus its prorata share of any deductible required to be paid by Lessor under its blanket policy which is attributable to the leased premises.

18. **SUBROGATION OF INSURANCE.** Lessor hereby waives any and all rights of recovery against Lessee for or arising out of damage or destruction of the building, or the demised premises, or any other property of Lessor, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of such policies, whether or not such damage or destruction shall have been caused

by the negligence of Lessee, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

Lessee hereby waives any and all rights of recovery against Lessor for or arising out of damage to or destruction of any property of Lessee from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Lessor, its agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

**19. DAMAGE OR DESTRUCTION.**

(a) In the event that the improvements are damaged or destroyed in whole or in part by fire, lightning or any other peril of other casualty during the term of this Agreement, this Agreement shall remain in full force and effect and Lessee shall proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed improvements or parts thereof to as good condition as the same were in immediately prior to such damage or destruction, subject to such alterations as Lessee may elect to make as permitted in Article 11. All proceeds from the insurance policies related to such damage or destruction shall be applied to cover the cost of such repairs or restoration. Any proceeds not required for such costs shall be distributed to the parties in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the proceeds are received. If Lessee and Lessor mutually agree, Lessee may use the insurance proceeds to construct other facilities equal to those facilities not restored.

(b) In the event that the improvements are damaged or destroyed in whole or in part by fire, lightning or any other peril or other casualty during the term of this Agreement, and such damage, destruction or loss is not capable of being repaired within 180 days, Lessee shall have the election, indicated by written notice given to Lessor within 180 days after the occurrence of such event, not to repair, restore, rebuild or replace the improvements, such election to be effective as of the date of such damage, destruction or loss. All of the insurance proceeds shall be paid to Lessee and Lessor in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the

proceeds are received. Where allowed by the insurance policy, insurance proceeds shall first be applied to the removal of damaged improvements from the premises before such distribution.

20. **CONDEMNATION.**

(a) If, during the term, title to, or the temporary use of, all or any part of the premises shall be condemned by any authority exercising the power of eminent domain, Lessee shall, within ninety (90) days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify Lessor in writing as to the nature and extent of such condemnation and whether it is practicable for Lessee to acquire or construct substitute improvements.

(b) If Lessee shall determine that such substitution is practicable and desirable and Lessor shall agree thereto, Lessee shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any net proceeds received from any award or awards with respect to the Premises or any part thereof made in such condemnation or eminent domain proceeds shall be used and applied for the purpose of paying the cost of such substitution. Any proceeds not required for such costs shall be distributed to the parties in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the proceeds are received.

(c) If Lessee shall determine that it is not practicable and desirable to acquire or construct substitute improvements, any net proceeds not required for such costs shall be distributed to the parties in pro-rata distributions as their interests may appear based upon the fair market value of each party's interest at the time the proceeds are received. Lessee agrees that it shall be reasonable in exercising its judgment pursuant to this subsection.

(d) Lessor shall cooperate fully with Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the premises or any part thereof. In no event will Lessee voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the premises without the written consent of Lessor.

21. **NON-WAIVER.** The waiver by Lessor of any breach of the Lessee of any term, covenant, provision, or condition hereof shall not operate as a waiver of any subsequent breach of the same or a waiver of any breach of any other covenant, term, provision, or condition hereof, nor shall any forbearance by Lessor to seek a remedy for any breach by Lessee be a waiver by Lessor of its rights and remedies with respect to such or any subsequent breach of the same or with respect to any other breach.

22. **FIRE AND POLICE PROTECTION.** Article 15, “Fire and Police Protection”, of the Agreement shall be modified to include the following language:

The City of Wichita currently charges Lessor a fee for provision of police and fire protection of the Airport. It is understood and agreed that Lessor may impose a fair and equitable charge to recover Lessee’s proportionate share of Lessor’s costs of these services. If, during the term of this Agreement, Lessor chooses to provide police and fire services directly, the recovery will be adjusted based upon Lessor’s established rate. Lessor agrees to substantiate to the best of its ability the methodology used to allocate charges to Lessee.

23. **ENVIRONMENTAL.**

Lessee shall be solely responsible for complying with all laws, ordinances, regulations, and codes applicable to the construction and operation of the facility. Lessee agrees to indemnify and hold harmless Lessor and the City of Wichita from any and all liability, loss, or damages they may suffer as a result of claims, demands, costs, orders, or judgments against Lessor arising from environmental response costs pertaining to the presence or operation of the facility. If at any time after the date of this Agreement, any federal, state, or local governmental authority with jurisdiction over the Lessor or the premises requires Lessor to perform any environmental action with respect to the presence of any release or threat of release of hazardous substances or hazardous wastes related to the presence or operation of the facility, Lessee shall, upon written notice from the Lessor take such environmental response actions as may be required by the governmental authority, and in addition, take such action as may be required by the governmental authority to respond to the release or threat of release.

In the event that it becomes necessary for Lessor to take steps to enforce this indemnification agreement, Lessor, if successful, shall be entitled to collect from Lessee all costs incurred in obtaining the enforcement, including attorney's fees.

Subject to Lessor's requirements for Airport safety and security, Lessor shall cooperate with Lessee and provide access to the Lessor's property in connection with any response to a claim covered by this indemnification agreement and in connection with any action that Lessee may deem necessary and/or appropriate to investigate and/or remediate environmental contamination on or near the premises.

The provisions of this section shall survive the expiration or early termination of this Agreement, unless assumed by Lessee's assigns, in which event Lessee shall be relieved of its obligations hereunder, except for such claims as may have arisen during its occupancy of the leased premises.

24. **SECURITY REGULATIONS.** Lessee shall comply with all applicable regulations relating to Airport security. Lessor shall be held harmless for any and all breaches of the Federal Aviation Administration or the Transportation Security Administration's policies and regulations and Lessor's security rules or regulations caused by the Lessee, its agents or employees, or that occur on the Lessee's Premises except to the extent caused by Lessor. In the event the Federal Aviation Administration or the Transportation Security Administration imposes a fine or penalty for any such security violation, whether such fine or penalty is assessed to the Lessor or the Lessee or their agents or employees, the penalty shall be paid by the Lessee, provided, however, that nothing herein shall prevent Lessee from contesting the legality, validity or application of such fine or penalty to the full extent Lessee may be lawfully entitled so to do.

25. **NON-DISCRIMINATION EEO/AAP.** The Lessee agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age, national origin or ancestry, or marital status in its operations or services, and its use or occupancy of property under this agreement. The Lessee agrees to comply with all

applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, et seq.; the Code of the City of Wichita Section 2.12.950; and any laws, regulations or amendments as may be promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity.

26. **MODIFICATIONS FOR GRANTING FAA FUNDS.** In the event that the Federal Aviation Administration requires modifications or changes to this Agreement as a condition precedent to granting of funds for the improvement of the Airport, Lessee agrees to consent to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required to enable the Lessor to obtain said Federal Aviation Administration funds, provided that in no event shall such changes materially impair the rights of Lessee hereunder or materially increase its obligations.
  
27. **THIRD PARTY RIGHTS.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
  
28. **OTHER TERMS.** It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year first above written.

ATTEST: THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By \_\_\_\_\_ By \_\_\_\_\_  
Karen Sublett, City Clerk Carl Brewer, President  
"LESSOR"

By \_\_\_\_\_  
Victor D. White, A.A.E.,  
Director of Airports

ATTEST: AMERICAN BONANZA SOCIETY AIR  
SAFETY FOUNDATION

By \_\_\_\_\_ By \_\_\_\_\_  
Title \_\_\_\_\_ Title \_\_\_\_\_  
"LESSEE"

APPROVED AS TO FORM: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Law

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Wichita Airport Authority  
**SUBJECT:** American Bonanza Society – Amendment No. 2  
**INITIATED BY:** Department of Airports  
**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Amendment.

**Background:** In 1981, the American Bonanza Society (ABS) entered into a 25-year lease agreement with the Wichita Airport Authority for use of 22,691.4 sq.ft. of land on which to construct a facility at 1922 Midfield Road. The agreement contained two, ten-year renewal options. In 1987, the agreement was amended to add an additional 22,691.4 sq.ft. of land to the leasehold for the purpose of constructing a Bonanza-Baron museum in the near future. Subsequently, however, the museum was constructed in Tullahoma, Tennessee. Consequently, ABS no longer has a need for the additional land, and is desirous of returning it to the WAA. Release of this land, which is situated in the core area of the airport, would provide additional space for adjacent businesses if needed, or would be available to the WAA for marketing to another tenant.

**Analysis:** Since the inception of the agreement, ABS has paid land rent to the Wichita Airport Authority. According to the terms of the agreement, facility rent is required during the renewal options, if exercised. An appraisal was completed by Steve Martens, President, The Martens Companies, in February of this year to determine facility rent. Mr. Martens stated that the fair market rental value of the 3,109 sq.ft. facility during the first five-year period is \$8.50 per sq.ft. per year, for an annual rental of \$26,426.50. Rental for the second five-year term of the renewal option is \$9.56/sq.ft., for an annual rental of \$29,722.04.

**Financial Considerations:** The original agreement includes language which states that rent during the two option periods will be at one-half of fair market rental value. One-half of fair market value will yield \$13,213.25 per year during the first five-year period and \$14,861.02 per year during the second five-year period. The annual amounts due are apportioned between facility and land rent, in accordance with WAA policy.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through extending agreements which allow the Airport to continue its operation on a self-sustaining basis.

**Legal Considerations:** The Law Department has approved the Amendment as to form.

**Recommendations/Actions:** It is recommended the Wichita Airport Authority approve the Amendment, and authorize the necessary signatures.

**Attachments:** Two original signature copies and 12 distribution copies of the Amendment.



**Federal Aviation Administration**  
U. S. Department of Transportation

**PASSENGER FACILITY CHARGE (PFC) APPLICATION**

**1. Application Type (Check all that apply)**

- a. Impose PFC Charges
- b. Use PFC Revenue
- c. Amend PFC No. \_\_\_\_\_

FAA USE ONLY

Date Received \_\_\_\_\_

PFC Number \_\_\_\_\_

**PART I**

**2. Public Agency Name, Address, and Contact Person**

Agency Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, ZIP \_\_\_\_\_  
Contact Person \_\_\_\_\_

**3. Airport(s) to Use**

**4. Consultation Dates**

a. Date of Written Notice to Air Carriers: \_\_\_\_\_

b. Date of Consultation Meeting with Air Carriers: \_\_\_\_\_

c. Date of Public Notice \_\_\_\_\_

**PART II**

**5. Charges**

a. Airport to Impose	b. Level	c. Total Estimated PFC Revenue by Level	d. Proposed Effective Date:	e. Estimated Expiration Date:
	<input type="checkbox"/> \$1.00 <input type="checkbox"/> \$2.00 <input type="checkbox"/> \$3.00	Impose		
		Use		
	<input type="checkbox"/> \$4.00 <input type="checkbox"/> \$4.50	Impose		
		Use		

**PART III**

**6. Attachments (Check all that Apply)**

Attached	Submitted with Application Number	Document
a. <input type="checkbox"/>	<input type="checkbox"/> _____	Airport Capital Improvement Plan
b. <input type="checkbox"/>	<input type="checkbox"/> _____	Project Information (Attachment B)
c. <input type="checkbox"/>	<input type="checkbox"/> _____	Air Carrier Consultation and Public Notice Information
d. <input type="checkbox"/>	<input type="checkbox"/> _____	Request to Exclude Class(es) of Carriers
e. <input type="checkbox"/>	<input type="checkbox"/> _____	Alternative Uses/Projects
f. <input type="checkbox"/>	<input type="checkbox"/> _____	Competition Plan/Update
g. <input type="checkbox"/>	<input type="checkbox"/> _____	ALP/Airspace/Environmental
h. <input type="checkbox"/>	<input type="checkbox"/> _____	Notice of Intent Project Information
i. <input type="checkbox"/>	<input type="checkbox"/> _____	

**PART IV**

**7. With respect to this PFC application I hereby certify as follows:**

To the best of my knowledge and belief, all data in this application are true and correct;  
This application has been duly authorized by the governing body of the public agency;  
The public agency will comply with the assurances (Appendix A to Part 158) if the application is approved;  
For those projects for which approval to use PFC revenue is requested, all applicable ALP approvals, airspace determinations, and environmental reviews required by the National Environmental Policy Act have been completed.  
If required, the public agency has submitted a competition plan in accordance with 49 U.S.C. 47106(f); and  
If required by 49 U.S.C. 40117(d)(4), adequate provision for financing the airside needs, including runways, taxiways, aprons, and gates, has been made by the public agency.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
	d. E-mail Address	e. Fax Number
f. Signature of Authorized Representative		g. Date Signed

**Paperwork Reduction Act Statement:** This form is the FAA's primary source for collecting information for the authority to collect PFC revenue for airport development. This information is used to determine the eligibility and justification of airport development projects regarding safety, security, or capacity of the national air transportation system; or which reduce noise or mitigate noise impacts resulting from an airport; or furnish opportunities for enhanced competition between or among air carriers. It is estimated that it will take approximately 5-80 hours to fill out the application depending on the complexity. The use of the form is required to obtain FAA approval of authority to collect PFC revenue (49 U.S.C. 40117(c)). No assurance of confidentiality is necessary or provided. It should be noted that an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection of information is 2120-0557. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC, 20591, Attn: Information Collections Clearance Officer, AIO-20.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Wichita Airport Authority  
**SUBJECT:** Passenger Facility Charge (PFC) Application  
**INITIATED BY:** Department of Airports  
**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Receive and file the PFC application.

**Background:** In 1991 the U.S. Congress approved an exception to the Anti-Head Tax Act permitting airports to assess passenger facility charges up to \$3.00 per departing passenger to be used for public capital improvements on airports. The Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (AIR-21) enabled a public agency to apply to the Federal Aviation Administration (FAA) to charge a PFC at the \$4.00 or \$4.50 level provided the projects met certain additional criterions. The purpose of the PFC is to supplement other financing vehicles and to formally give local control of the funds as long as the expenditure is eligible. Generally this means that the monies must be spent on approved non-revenue producing public facilities. The airlines serving U.S. airports collect the PFCs through the ticket sale process and relinquish the funds directly to the airports. The WAA began collecting a \$3.00 PFC charge at Mid-Continent Airport in 1994 and increased it to \$4.50 in 2005.

**Analysis:** In order for any airport to collect PFC funds, it is necessary for an application to be made to the Federal Aviation Administration (FAA). The airlines serving the airport are permitted to comment on the project to be funded as outlined in the application. The FAA has 120 days to approve or disapprove the application based upon eligibility and justification. The current authority to collect a PFC will expire in late summer, 2008 so staff has submitted an application that will extend the collection authority until October, 2009. The project included in the application is a Closed Circuit TV/Access Control System replacement which is included in the approved Capital Improvements Program document. This project will individually proceed through the standard WAA authorization and procurement processes. The Wichita Airport Advisory Board reviewed the supporting documents for the application and recommended approval by the WAA.

**Financial Considerations:** As of December 31, 2007, the WAA has collected \$27,580,671 of the total \$29,513,859 authorized. This application is estimated to yield another \$3,630,000 in collection authority. This project is fully funded by PFC monies. Future applications are anticipated to extend the PFC program.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through maximization of funding opportunities for capital improvements.

**Legal Considerations:** None.

**Recommendations/Actions:** Receive and file the PFC application.

**Attachments:** 12 distribution copies of the application.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Wichita Airport Authority

**SUBJECT:** Purchase of Liquid Deicer Truck  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Initiate purchase of equipment.

**Background:** The 2008 Capital Improvement Program includes a project to purchase airfield equipment. A solicitation has been prepared to purchase a new Liquid Deicer truck to replace a 29-year old de-icing vehicle which will be transferred to Colonel James Jabara Airport.

**Analysis:** Reliability of this equipment is critical in order to remove ice from the airfield pavement. The new equipment will operate more efficiently and economically.

**Financial Considerations:** Estimated cost of the equipment is \$250,000, which has been previously approved for funding with Passenger Facility Charge (PFC) collections.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through providing a safe aviation environment for users of Mid-Continent Airport.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the capital project budget, and authorize staff to solicit bids.

**Attachments:** None

**APPLICATION FOR  
FEDERAL ASSISTANCE**

<b>1. TYPE OF SUBMISSION</b>		<b>2. DATE SUBMITTED</b> 5-20-08	Applicant Identifier										
<i>Application</i> <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		<b>3. DATE RECEIVED BY STATE</b>	State Application Identifier										
<i>Pre-application</i> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		<b>4. DATE RECEIVED BY AGENCY</b>	Federal Identifier <b>AIP 3-20-0089-16</b>										
<b>5. APPLICANT INFORMATION</b>													
Legal Name: <b>Wichita Airport Authority</b>		Organizational Unit: <b>Wichita Airport Authority</b>											
Organizational DUNS: <b>124970641</b>		Department:											
Address: Street: <b>2173 Air Cargo Road</b>		Division:											
City: <b>Wichita</b>		Name and telephone of person to be contacted on matters involving this application (give area code)											
County: <b>Sedgwick</b>		Prefix: <b>Mr.</b>	First Name: <b>Victor</b>										
State: <b>KS</b> Zip Code: <b>67209</b>		Middle Name:											
Country: United States		Last Name: <b>White</b>											
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>4</td><td>8</td><td>-</td><td>6</td><td>0</td><td>0</td><td>0</td><td>6</td><td>5</td><td>3</td> </tr> </table>		4	8	-	6	0	0	0	6	5	3	Email: <b>vwhite@wichita.gov</b>	
4	8	-	6	0	0	0	6	5	3				
<b>8. TYPE OF APPLICATION</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) <input type="checkbox"/> <input type="checkbox"/> Other (specify)		<b>7. TYPE OF APPLICANT</b> (See back of form for Application Types)  Other (Specify)											
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NO.</b> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>2</td><td>0</td><td>-</td><td>1</td><td>0</td><td>6</td> </tr> </table>		2	0	-	1	0	6	<b>9. NAME OF FEDERAL AGENCY:</b> <b>Federal Aviation Administration</b>					
2	0	-	1	0	6								
TITLE (Name of Program): <b>Airport Improvement Program</b>		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b> <b>Colonel James Jabara Airport Airfield Electrical System Replacement</b>											
<b>12. AREAS AFFECTED BY PROJECT</b> (Cities, Counties, States, etc.): <b>Wichita, Sedgwick County, Kansas</b>		<b>14. CONGRESSIONAL DISTRICTS OF:</b>											
<b>13. PROPOSED PROJECT</b>		a. Applicant	b. Project										
Start Date <b>2008</b>	Ending Date <b>2009</b>	<b>4th</b>	<b>4th</b>										
<b>15. ESTIMATED FUNDING:</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>											
a. Federal	\$ 707,000. <sup>00</sup>	a. YES. <input type="checkbox"/>	THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE : _____										
b. Applicant	\$ 37,210. <sup>00</sup>	b. NO. <input checked="" type="checkbox"/>											
c. State	\$ . <sup>00</sup>	<input type="checkbox"/>	PROGRAM IS NOT COVERED BY E.O. 12372										
d. Local	\$ . <sup>00</sup>		OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW										
e. Other	\$ . <sup>00</sup>												
f. Program Income	\$ . <sup>00</sup>												
g. TOTAL	\$ 744,210. <sup>00</sup>	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>											
		<input type="checkbox"/> Yes, if "Yes", attach an explanation <input checked="" type="checkbox"/> No											
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>													
a. Authorized Representative													
Prefix <b>Mr</b>	First Name: <b>Victor</b>	Middle Name: <b>D.</b>											
Last Name: <b>White</b>		Suffix:											
b. Title: <b>Director of Airports</b>		c. Telephone: <b>316-268-4331</b>											
d. Signature of Authorized Representative:		e. Date Signed:											

**PART II**

**PROJECT APPROVAL INFORMATION  
SECTION A**

Item 1.

Does this assistance request require State, local, regional, or other priority rating?

Yes  No

Name of Governing Body:  
Priority:

Item 2.

Does this assistance request require State, or local advisory, educational or health clearances?

Yes  No

Name of Agency or Board:  
(Attach Documentation)

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?

Yes  No

(Attach Comments)

Item 4.

Does this assistance request require State, local, regional or other planning approval?

Yes  No

Name of Approving Agency:

Date: / /

Item 5.

Is the proposal project covered by an approved comprehensive plan?

Yes  No

Check one: State   
Local   
Regional

Location of Plan:

Item 6.

Will the assistance requested serve a Federal installation?

Yes  No

Name of Federal Installation:  
Federal Population benefiting from Project:

Item 7.

Will the assistance requested be on Federal land or installation?

Yes  No

Name of Federal Installation:  
Location of Federal Land:  
Percent of Project:

Item 8.

Will the assistance requested have an impact or effect on the environment?

Yes  No

See instruction for additional information to be provided

Item 9.

Will the assistance requested cause the displacement of individuals, families, businesses, or farms?

Yes  No

Number of:  
Individuals:  
Families:  
Businesses:  
Farms:

Item 10.

Is there other related Federal assistance on this project previous, pending, or anticipated?

Yes  No

See instructions for additional information to be provided.

**PART II - SECTION C**

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. - The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

In as far as this is within our power, the Wichita Airport Authority of Wichita, Kansas, will affirmatively work to obtain appropriate zoning by the Wichita Sedgwick County Metropolitan Area Planning commission which has zoning authority to take action to restrict the use of land in the immediate vicinity of Colonel James Jabara Airport. The current zoning ordinance has obstruction zoning prohibiting certain manufacturing facilities, which produce smoke, dust, gaseous fumes, and electrical interference or glare impairing the visibility of pilots.

2. Defaults. - The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

NONE

3. Possible Disabilities. - There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

NONE

4. Consistency with Local Plans. - The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

YES

5. Consideration of Local Interest - It has given fair consideration to the interest of communities in or near where the project may be located.

YES

6. Consultation with Users. In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport which project is proposed.

YES

7. Public Hearings. - In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

NA

8. Air and Water Quality Standards. - In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

**PART II - SECTION C (Continued)**

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

NA

10. Land. – (a) The sponsor holds the following property interest in the following areas of land\* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

The Wichita Airport Authority of Wichita, Kansas, has the Fee Simple Title to all land comprising Colonel James Jabara Airport, free and clear of all encumbrances and/or restrictions, subject however, to the leases and/or use agreements

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land\* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

NA

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land\* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A"

NA

---

*\*State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

**PART III - BUDGET INFORMATION - CONSTRUCTION**

**SECTION A - GENERAL**

- 1. Federal Domestic Assistance Catalog No. ....
- 2. Functional or Other Breakout .....

**SECTION B - CALCULATION OF FEDERAL GRANT**

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$ 17,220.00	\$	\$ 17,220.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees	34,024.00		34,024.00
5. Other Architectural engineering fees	5,750.00		5,750.00
6. Project inspection fees	84,456.00		84,456.00
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement	602,760.00		602,760.00
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)	744,210.00		744,210.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)	744,210.00		744,210.00
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)	744,210.00		744,210.00
20. Federal Share requested of Line 19 (95%)	707,000.00		707,000.00
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)	707,000.00		707,000.00
23. Grantee share	37,210.00		37,210.00
24. Other shares			
25. Total Project (Lines 22, 23 & 24)	\$ 744,210.00	\$	\$ 744,210.00

**SECTION C - EXCLUSIONS**

Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. <b>Totals</b>	\$	\$

**SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE**

27. Grantee Share	\$ 37,210.00
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	
d. Bonds	37,210.00
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	
28. Other Shares	
a. State	
b. Other	
c. Total Other Shares	
29. TOTAL	\$ 37,210.00

**SECTION E - REMARKS**

**PART IV PROGRAM NARRATIVE (Attach - See Instructions)**

**PART IV**  
**PROGRAM NARRATIVE**  
*(Suggested Format)*

DEPARTMENT OF TRANSPORTATION - FEDERAL AVIATION ADMINISTRATION

OMB NO. 2120-0569

**PROJECT : Airfield Electrical and Lighting System Replacement**

**AIRPORT : Colonel James Jabara Airport**

**1. Objective:**

This project includes 1) the replacement of the regulator because replacement parts are no longer available and 2) the replacement of the airfield lighting system. The 1992 runway extension lighting is included in this project in order to not have a small segment of the system 15 years old.

Lighting is being added to Taxiway L due to increased development and aircraft activity.

**2. Benefits Anticipated:**

New lighting will provide a safer environment for airport users.

**3. Approach :** *(See approved Scope of Work in Final Application)*

The entire project, except installation of the regulator, will complete in 45 calendar days from Notice to Proceed. All work within the runway safety area will be complete in 20 non-consecutive calendar days inside the 45-calendar-day window. The regulator will be installed and operational within 90 calendar days from Notice to Proceed.

**4. Geographic Location:**

Wichita, Kansas (see attached map).

**5. If Applicable, Provide Additional Information:**

N/A

**6. Sponsor's Representative:** *(include address & telephone number)*

Victor White, A.A.E.  
2173 Air Cargo Road  
Wichita, KS 67209  
316-946-4700

**CERTIFICATE OF TITLE**  
**FAA Central Region**

To: Manager, Safety and Standards Branch

Subject: Colonel James Jabara Airport

AIP Project No. 3-20-0089-16

This certification is made to satisfy (check **both** if applicable):

**Part II Section C.10 of the Grant Application (FAA Form 5100-100) for existing airport property**  
 **Grant conditions relative to satisfactory title evidence for land being acquired under this project**

The Wichita Airport Authority (hereinafter referred to as the "Sponsor"), pursuant to Section 47105(d) of the Federal Aviation Administration Authorization Act of 1994 (and amendments), hereby certifies that satisfactory property interest to the land indicated herein is vested in the Sponsor, as required by obligations of the referenced Grant Agreement with the Federal Aviation Administration.

The Sponsor hereby certifies that it holds the quality of title described below, as of the date of the attorney's title opinion on which this certification is based.

Parcel Number (Per Exhibit A)	Quality of Interest (Fee, Easement*, etc.,)
2	Fee Simple
5	Fee Simple
7	Fee Simple

Parcels must be listed. Avoid simply referencing the Exhibit A Property Map. Attach additional sheets as necessary.

\*The Sponsor certifies that grantors of easements constitute all of the owners of the land affected by such easements, and they had such quality of title in and to such land as to enable them to convey the interest purported to be conveyed in and by the easements granted. No other interests or rights exist which are incompatible with or would interfere with the exercise and enjoyment by the Sponsor of the rights and interests conveyed.

Sponsor hereby certifies that the Sponsor or the Sponsor's attorney have reviewed, evaluated and subordinated to airport use where necessary, all encumbrances and that no outstanding encumbrances exist which might affect the maintenance, operation, or development of the airport.

Sponsor further certifies that if defects in the title require correction after acceptance of this Certificate of Title by the FAA, the Sponsor accepts full responsibility for clearing such defects, encumbrances, or exceptions at its own expense.

This Certificate of Title is based upon a current title opinion dated June 11, 1997 by the sponsor's attorney, Gary E. Rebenstorf.

Sponsor certifies that the title opinion referenced above corresponds with the "Exhibit A" airport property map dated July 27, 2006, AIP project number 3-20-0089-15. Although specific title evidence documents are not submitted herewith, copies of deeds and other appropriate evidence of title for the land are on file with the Sponsor and are available for inspection by the FAA.

It is understood that the FAA reserves the right to require additional information at any time.

Wichita Airport Authority  
Name of Sponsor

\_\_\_\_\_  
Director of Airports  
Signature and Title of Sponsor Official Authorized to Sign Grant Agreement

\_\_\_\_\_  
Date

TRACT NO.	PROPERTY INTEREST	ACQUISITION DATE	PROJECT NO.
1	FEE SIMPLE	1/11/79	1047-25-029-11
2	FEE SIMPLE	1/11/79	1047-25-029-11
3	FEE SIMPLE	1/11/79	1047-25-029-11
4	FEE SIMPLE	1/11/79	1047-25-029-11
5	FEE SIMPLE	1/11/79	1047-25-029-11
6	FEE SIMPLE	1/11/79	1047-25-029-11
7	FEE SIMPLE	1/11/79	1047-25-029-11
8	FEE SIMPLE	1/11/79	1047-25-029-11
9	FEE SIMPLE	1/11/79	1047-25-029-11
10	FEE SIMPLE	1/11/79	1047-25-029-11
11R	RIGHT OF WAY	10/27/79	1047-25-029-11
12R	RIGHT OF WAY	10/27/79	1047-25-029-11
13	FEE SIMPLE	1/11/79	1047-25-029-11
14	FEE SIMPLE	1/11/79	1047-25-029-11
15	FEE SIMPLE	1/11/79	1047-25-029-11
16	FEE SIMPLE	1/11/79	1047-25-029-11
17	FEE SIMPLE	1/11/79	1047-25-029-11
18	FEE SIMPLE	1/11/79	1047-25-029-11

**LEGEND**

- PROPERTY LINE
- FUTURE PROPERTY LINE
- FEDERAL FUNDS - ADAP
- FEDERAL FUNDS - AIRP
- AIRPORT REVENUE

MANHATTAN, KANSAS 66501  
 ZONE I-E

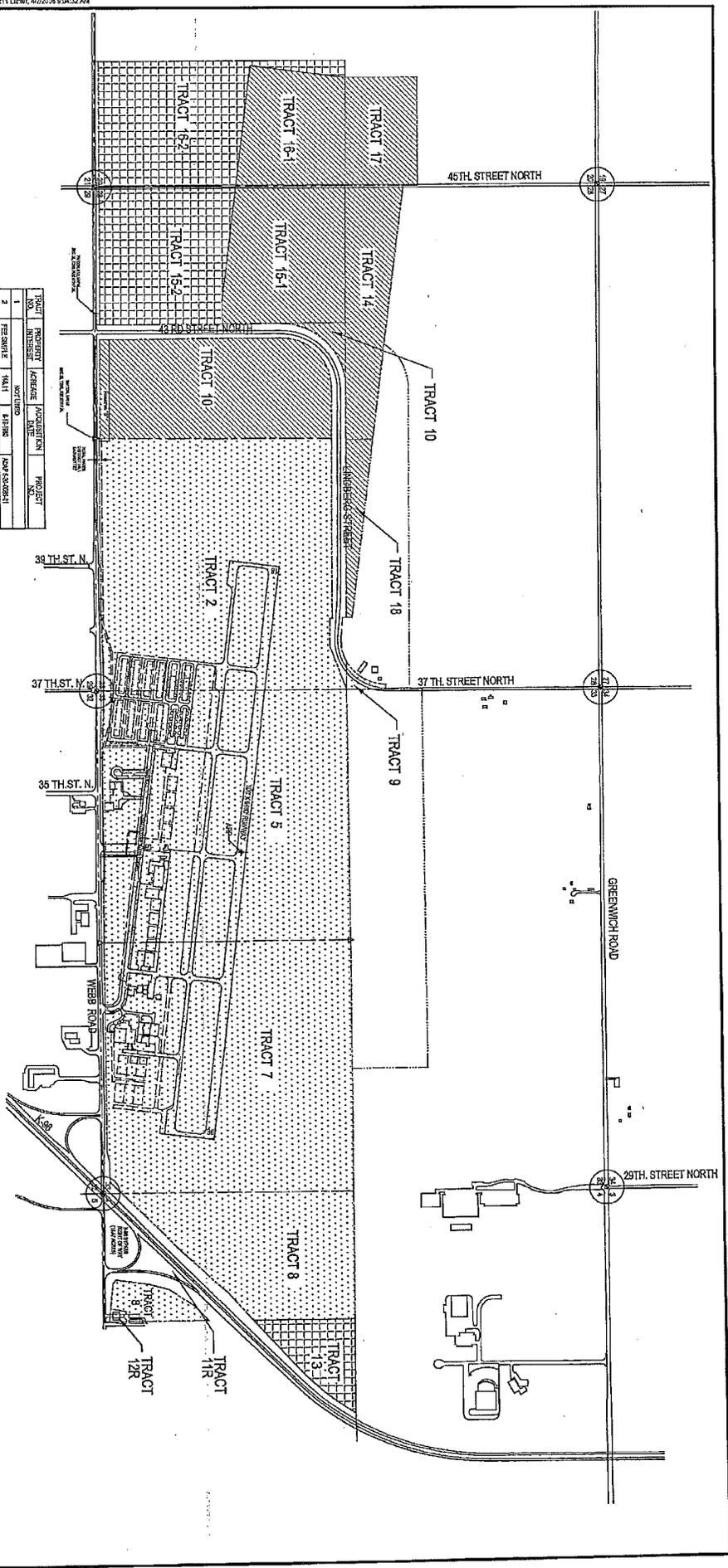
0' 250' 500' 1000'

CITY OF WICHITA  
 WICHITA, KANSAS

Wichita Airport Authority

**AIRPORT PROPERTY MAP**  
**COLONEL JAMES JABARA AIRPORT**  
 THE WICHITA AIRPORT AUTHORITY  
 WICHITA, KANSAS

DATE: 7/27/06  
 DR. BY: H.G.O.  
 SCALE: 1" = 1000'  
 SHEET: 1 OF 1



**U.S. DEPARTMENT OF TRANSPORTATION  
 FEDERAL AVIATION ADMINISTRATION  
 AIRPORT IMPROVEMENT PROGRAM  
 SPONSOR CERTIFICATION  
 DRUG-FREE WORKPLACE**

Wichita Airport Authority

Colonel James Jabara

3-20-0089-16

*(Sponsor)*

*(Airport)*

*(Project Number)*

*Description of Work:*

This project includes 1) the replacement of the regulator because replacement parts are no longer available and 2) the replacement of the airfield lighting system. The 1992 runway extension lighting is included in this project in order to not have a small segment of the system 15 years old.

Lighting is being added to Taxiway L due to increased development and aircraft activity.

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been or will be published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. An ongoing drug-free awareness program has been or will be established to inform employees about:			
a. The dangers of drug abuse in the workplace;			
b. The sponsor's policy of maintaining a drug-free workplace;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Any available drug counseling, rehabilitation, and employee assistance programs; and			
d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.			
3. Each employee to be engaged in the performance of the work has been or will be given a copy of the statement required within item 1 above.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Employees have been or will be notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will:			
a. Abide by the terms of the statement; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.			

- |   | Yes                                 | No                       | N/A                      |
|---|-------------------------------------|--------------------------|--------------------------|
| 5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:   |                                     |                          |                          |
| a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.  |                                     |                          |                          |
| 7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

I have prepared documentation shown below or attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified below or in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

	Location	Location	Location
Street Address:	<u>2173 Air Cargo Road</u>	_____	_____
City:	<u>Wichita</u>	_____	_____
State:	<u>KS</u>	_____	_____
Zip code:	<u>67209</u>	_____	_____

Wichita Airport Authority

Name of Sponsor

Signature of Sponsor's Designated Official Representative

Victor White, A.A.E.

Type Name of Sponsor's Designated Official Representative

Director of Airports

Typed Title of Sponsor's Designated Official Representative

\_\_\_\_\_  
Date of Signature

## STANDARD DOT TITLE VI ASSURANCES

Wichita Airport Authority (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, - Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Sections 21.23(e) and 21.23 (b)) will be conducted or operated in compliance with all requirements of the Regulations.
2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.
3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the sponsor with other parties:
  - (a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this Project; and
  - (b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.
6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods:
  - (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or
  - (b) the period during which the sponsor retains ownership or possession of the property.

7. It will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants or Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this assurance.

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED \_\_\_\_\_

Wichita Airport Authority  
(Sponsor)

By \_\_\_\_\_  
(Signature of Authorized Official)

# CONTRACTOR CONTRACTUAL REQUIREMENTS

## ATTACHMENT 1

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued Pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## CLAUSES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

### ATTACHMENT 2

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of Assurances 5(a) and 5(b).

1. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

SUPPLEMENTAL AGREEMENT NO. 2

to the

AGREEMENT FOR ENGINEERING SERVICES

between

THE WICHITA AIRPORT AUTHORITY, WICHITA, KANSAS

Party of the First Part, hereinafter called the

"OWNER"

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

303 SOUTH TOPEKA

WICHITA, KANSAS 67202

Party of the Second Part, hereinafter called the

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract between the two parties covering Engineering Services to be provided by the ENGINEER in conjunction with the Airfield Paving, Marking, and Electrical Improvements at Colonel James Jabara Airport; and

WHEREAS, the OWNER now desires to proceed with Phase III of the existing Agreement in conjunction with constructing the PROJECT; for replacement of the Airfield Lighting; and

WHEREAS, Paragraphs I, Exhibit A C.3. of the existing Agreement provides that the Scope of Services and Payment to the ENGINEER for furnishing Construction Phase Services for the PROJECT shall be established by Supplemental Agreement; and

WHEREAS, ARTICLE IV of the existing Agreement, and Paragraph B provide that the Scope of Services and Payment to the ENGINEER for furnishing additional Engineering Phase Services for the PROJECT shall be established by Supplemental Agreement; and

WHEREAS, it is the desire of both parties that the ENGINEER provide Construction Phase Services for the PROJECT, and in compliance with the F.A.A. Central Region criteria:

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

A. CONTRACT ADMINISTRATION. Contract Administration duties shall routinely be the responsibility of the ENGINEER's Project Manager.

1. During Construction Provide the Following:

- a. Assist in conducting Pre-Construction Conference and development of minutes.
- b. Participate in a "Partnering" Conference, if requested.
- c. Prepare a "Construction Observation Program" and submit same to the OWNER & the FAA for concurrence prior to start of construction.
- d. Prepare estimate forms for periodic payment to the Contractor.
- e. Receive and review Contractor's quality control plan, safety plan, shop drawings, and material certifications.
- f. Receive and review Contractor falsework and formwork details as may be required by the contract documents. Submittals shall be reviewed with respect to conformance with the requirements of the project specifications and general conformity to the lines, shapes and dimensions detailed in the plans. This task will not include an analysis of the structural adequacy of the formwork or falsework.
- g. Make periodic visits to the PROJECT site to determine Contractor's progress and general character of the work.
- h. Consult with the Resident PROJECT Representative regarding interpretations or clarifications of the plans and specifications.
- i. Provide ENGINEER's decision in accordance with the contract documents on questions regarding the work.
- j. Review materials field test reports as submitted by the Resident PROJECT Representative.
- k. Prepare Supplemental Agreements covering modifications or revisions necessitated by field conditions.
- l. Review Change Orders and/or Supplemental Agreements prepared by the Resident PROJECT Representative.
- m. Conduct Final Inspection of the work.

- n. Issue Certificate of Completion when the PROJECT has been completed.
- o. Meet with OWNER as requested during construction to review progress.

2. After Construction Provide the Following:

- a. Prepare reproducible "Record" drawings of the completed work based on information provided by the Resident PROJECT Representative.
- b. Deliver "Record" drawings to the OWNER in both hard copy and digital form. Project Specifications and addenda shall be delivered in digital file (MS Word) with the "Record" drawings.

B. RESIDENT ENGINEERING SERVICES. Resident Engineering duties will routinely be the responsibility of the ENGINEER's Resident PROJECT Representative.

1. During Construction Provide the Following:

- a. Provide personnel acceptable to the OWNER to perform technical observation during construction of the PROJECT, including a full-time Resident PROJECT Representative, who shall be supervised by the PROJECT Resident Engineer. The Resident Engineer shall be a registered Professional Engineer with qualifications conforming to the Central Region FAA "Standards for Construction Observation", and such supporting staff as may be required. Through continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident PROJECT Representative and his supporting staff, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the work; but the furnishing of such resident PROJECT representation shall not make the ENGINEER responsible for the Contractor's failure to perform the construction work in accordance with the contract documents.

- b. Establish construction layout control points including benchmarks and horizontal control points as may be required. Periodically review and check in field the Contractor's staking notes and layout. This includes actual field check of staking.
- c. Supervise inspection and OWNER responsible testing. Arrange for, conduct (or witness), field, laboratory, and shop tests of construction materials as required by the plans and specifications; determine the suitability of materials on the site and brought to the site to be used in the construction; check the construction activities to determine compliance with the intent of the design; measure, compute, or check quantities of work performed and quantities of material in-place for partial and final payments to the Contractor; and maintain diaries and other project records to document the work.
- d. Photograph existing conditions prior to construction beginning on the project.
- e. Prepare elementary and supplementary sketches required and conduct preliminary negotiations necessary to resolve "changed" field conditions encountered.
- f. Attend all project meetings, develop and provide minutes of project meetings within 7 days after the meetings.
- g. Review and forward all construction schedules, material certifications and detailed shop and erection drawings to the ENGINEER's Project Manager. Assist the Project Manager in evaluating the acceptability of all submittals.
- h. Review, analyze, and prepare recommendations for laboratory, shop and mill test reports of materials and equipment.
- i. Perform on-site Labor Standard Interviews.
- j. Review requests for monthly and final payments to the Contractor and forward same to the ENGINEER's Project Manager with recommendations for approval.
- k. Provide record information to the ENGINEER's Project Manager for preparation of "Record" drawings, and a "Summary of Test Reports" on the completed work.
- l. Prepare "Certificates of Completion" for review by the ENGINEER's Project Manager and submit same to the OWNER.

- m. Prepare initial drafts and conduct preliminary negotiations for all Change Orders and Supplemental Agreements covering work on the PROJECT. Submit same to the ENGINEER'S Project Manager for review and thenceforth to the OWNER for approval.
- n. Review work performed by DBE Contractors for conformance with their Contractual responsibilities.
- o. Provide on-site and local transportation for the Resident PROJECT Representative and supporting staff to perform the duties.
- p. Provide basic testing equipment and supplies for the Resident PROJECT Representative and supporting staff to perform the duties associated with the OWNER'S quality assurance testing at the frequency and manner set forth in the specifications.
- q. Provide special field office equipment and all expendable office supplies such as stationery, pencils, report forms, etc., except that the on-site field office, including utilities and furnishings, shall be provided by the OWNER.
- r. Receive and prepare recommendations relative to work performed by inspection bureaus and outside commercial testing laboratories for inspection and/or testing of materials or procedures entering into the construction, except that the cost of all such tests and inspections by bureaus and outside commercial testing laboratories, shall be authorized and paid for by the OWNER.
- s. Meet with the OWNER as necessary to confer with respect to the duties and project services.

C. ADDITIONAL DESIGN SERVICES.

1. The original PROJECT scope, defined as Taxiways F and G, General Aviation Ramp, Airfield Lighting, and Runway Markings, included fees necessary to prepare a single set of documents for all elements of the PROJECT. After the Contract for design was executed, PEC was asked to divide the PROJECT into two separate construction projects. This was done by designing the Taxiways, Runway Markings, and the North General Aviation Ramp grading into a project which was let and construction completed in late 2007. The

remaining work, the Airfield Lighting Replacement, has been designed as a separate project and is scheduled to be bid and constructed in 2008. The additional work involved with creating two set of project documents includes:

- a) Prepare separate front-end project manual documents.
- b) Prepare separate project phasing and operations plans.
- c) Prepare separate Engineer's Report.
- d) Attend additional design review meetings.
- e) Additional time spent assembling documents.

- 2. In conjunction with preparing multiple projects as described above, additional effort will be required by PEC to complete the Bid Phase services for two projects instead of a single project as was included in the original agreement.

## II. TIME OF SERVICES

- A. ENGINEER shall commence work on the PROJECT upon receipt of Authorization to Proceed from the OWNER.
- B. Completion of services is dependent upon the Contractor's progress and the time frame set forth in the construction contract documents. The fee(s) included in this Agreement are based on substantial completion of the construction by 31 December 2008, and delivery of all PROJECT close out items to the OWNER within 45 calendar days following Final Acceptance, exclusive of any delays beyond the control of the ENGINEER.

## III. THE OWNER AGREES

- A. To provide a construction office for the ENGINEER's field personnel assigned to the PROJECT. Provision of a field office shall include all essential utilities and the monthly costs associated therewith.
- B. To pay the ENGINEER in accordance with the provisions of Article IV of this Supplemental Agreement.

#### IV. PAYMENT PROVISIONS

##### A. CONTRACT ADMINISTRATION AND RESIDENT ENGINEERING SERVICES

Payment to the ENGINEER for services provided as outlined in Paragraphs I.A. and I.B. shall be generally in accordance with Exhibit SA1-A1, attached, and shall be on the basis of cost, plus a fixed fee for profit of \$10,378.00 which shall be limited to 15-percent of the ENGINEER's direct labor and overhead costs, the total including reimbursable expenses shall not exceed \$84,455.65.

##### B. OVERHEAD

For purposes of this Agreement, the ENGINEER's overhead factor shall be fixed at 127.57, which is the 2007 PEC federally audited overhead rate.

##### C. ADDITIONAL DESIGN SERVICES

1. Two Separate Projects: payment to the ENGINEER for services provided as outlined in Paragraph I.C.1. shall be generally in accordance with Exhibit SA1-A2, attached, and shall be a lump sum amount of \$4,200.00.
2. Additional Bid Phase: Payment to the ENGINEER for services provided as outlined in Paragraph I.C.2. shall be generally in accordance with Exhibit SA1-A2, attached, and shall be a lump sum amount of \$5,750.00.

##### D. ADJUSTMENT IN FEE

In the event the Contractor fails to complete the PROJECT within the specified Contract time, the ENGINEER shall be deemed to be performing "Extra Work" in which case should the maximum contract amount as set forth in either Paragraph IV.A. above be exceeded, the ENGINEER shall be eligible for additional compensation.

In no case shall additional work be performed or compensation be paid without the written authorization of the OWNER. Any authorization shall first be supported by documentation from the ENGINEER outlining the reasons therefore and the probable maximum fee to be expected. The

ENGINEER shall notify the OWNER a minimum of 14 days in advance of any foreseeable need to perform extra work.

The parties hereunto mutually agree that all provisions and requirements of the original Agreement not specifically modified by Supplemental Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the OWNER and the CONSULTANT have executed this Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

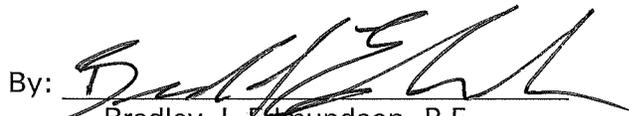
By: \_\_\_\_\_  
Karen Sublett, City Clerk

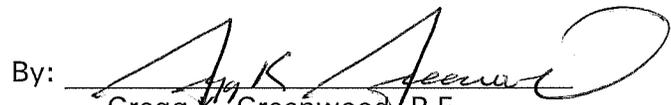
By: \_\_\_\_\_  
Carl Brewer, President  
"OWNER"

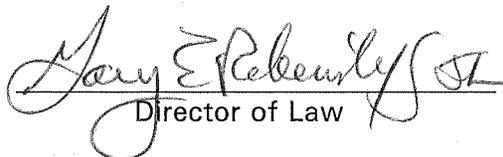
By: \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

PROFESSIONAL ENGINEERING  
CONSULTANTS, P.A.

By:   
Bradley J. Edmundson, P.E.  
Construction Division Manager

By:   
Gregg K. Greenwood, P.E.  
Vice President  
"CONSULTANT"

APPROVED AS TO FORM:  Date: \_\_\_\_\_  
Director of Law

- attachments: EXHIBIT A: Engineering Fee Estimate
- EXHIBIT B: Allied Labs Testing Proposal
- EXHIBIT C: Materials Testing Fee Schedule

# ENGINEERING FEE ESTIMATE

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

EXHIBIT SA1-A1

ENGINEERS

WICHITA, KANSAS

PROJECT

LOCATION

REPLACEMENT OF AIRFIELD LIGHTING SYSTEM

Wichita Mid-Continent Airport

WORK ITEM

PROJECT NO.

DATE

Construction Phase Services

FAA AIP PROJ # 3-20-0089-16

04 April 2008

COW PROJ # 467-053

DESCRIPTION

Contract Administration & Resident Engineering Services

(I)	SALARY COSTS	RATE	MAN HOURS	AMOUNT	TOTAL (SUBTOTAL)
	1. PRINCIPALS	/ hr.	0	\$ -	
	2. PROJECT MANAGER	\$37.00 / hr.	20	\$ 740.00	
	3. PROJECT ENGINEER	/ hr.	0	\$ -	
	4. DESIGN ENGINEER	\$32.00 / hr.	21	\$ 672.00	
	5. DESIGN TECHNICIAN	/ hr.	0	\$ -	
	6. DRAFTER	/ hr.	0	\$ -	
	7. CAD OPERATOR	\$29.00 / hr.	32	\$ 928.00	
	8. SURVEYOR, PARTY CHIEF	/ hr.	0	\$ -	
	9. SURVEYOR, INSTRUMENT MAN	/ hr.	0	\$ -	
	10. SURVEYOR, AIDES	/ hr.	0	\$ -	
	11. FIELD ENGINEER	\$35.00 / hr.	399	\$ 13,965.00	
	12. INSPECTOR, SUPERVISOR	/ hr.	0	\$ -	
	13. INSPECTOR, TECHNICIAN I	\$22.00 / hr.	443	\$ 9,746.00	
	14. INSPECTOR, TECHNICIAN II	\$20.00 / hr.	200	\$ 4,000.00	
	15. INSPECTOR, TECHNICIAN III	\$19.00 / hr.	5	\$ 95.00	
	16. BATCH PLANT TECHNICIAN	\$18.00 / hr.	0	\$ -	
	17. STENO & CLERICAL	\$15.00 / hr.	17	\$ 255.00	
	<b>SUBTOTAL</b>		<b>1,137</b>		<b>\$ 30,401.00</b>
(II)	OVERHEAD	1.2757 X (I)			\$ 38,783.00
(III)	SUBTOTAL [ I + II ]				\$ 69,184.00
(IV)	FIXED FEE	15%			\$ 10,378.00
(V)	OTHER EXPENSE	RATE	UNITS	AMOUNT	TOTAL (SUBTOTAL)
	1. PART. CONF. (AT COST) (1/3)		0	\$ -	
	2. TRAVEL PER MILE	\$0.55 / mile	2,500	\$ 1,375.00	
	3. LAB TESTING	\$500.00 / LS	1	\$ 500.00	
	4. CELL PHONES (AT COST)	\$50.00 / mo.	2	\$ 100.00	
	5. CAD PER HOUR	\$17.00 / hr.	32	\$ 544.00	
	6. PRINTING (SPEC. ETC.)	\$300.00 / ea.	1	\$ 300.00	
	7. PREMIUM TIME (0.585 X Direct)	\$1,924.65 / ea.	1	\$ 1,924.65	
	8. LANDLINE PHONE	\$50.00 / mo.	3	\$ 150.00	
	<b>SUBTOTAL</b>				<b>\$ 4,893.65</b>
(VI)	<b>TOTAL FEE FOR PROJECT ( III + IV + V )</b>				<b>\$ 84,455.65</b>

## STAFF HOURS, FEES & EXPENSES

### Colonel James Jabara Airport

Additional Design Services for Airfield Paving, Marking and Electrical Improvements

	<u>PHASE</u>	<u>MAN-HOURS</u>	<u>LUMP SUM FEE</u>
IV. C. 1.	<u>Two Separate Projects</u>		
	Electrical	20	\$ 1,500.00
	Civil	40	<u>\$ 2,700.00</u>
		TOTAL	\$ 4,200.00
IV. C. 2.	<u>Additional Bid Phase</u>		
	Electrical	25	\$ 2,000.00
	Civil	40	<u>\$ 3,750.00</u>
		TOTAL	\$ 5,750.00

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Wichita Airport Authority

**SUBJECT:** Colonel James Jabara Airport  
Airfield Electrical Equipment Replacement

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve Supplemental Agreement No. 1 and the grant application.

**Background:** On May 6, 2008 the Wichita Airport Authority approved the capital project and a budget of \$1,030,025.00. The contract for design and bid services was transferred from the Colonel James Jabara Airport Taxiway F & G project. At that time it was noted that an FAA grant would pay for a large percentage of this project.

**Analysis:** The airfield electrical equipment replacement has been scheduled to optimize federal funding. To accomplish receipt of federal funding, additional design and bid services are required. A supplemental agreement has been prepared with Professional Engineering Consultants to authorize the adjustment to the design and bid phases plus construction-related services. FAA funds are now available and staff has prepared a grant application for submittal to the FAA.

**Financial Considerations:** The additional cost to adjust the design and bid phases is a lump sum of \$4,200.00 for design phase services and a lump sum of \$5,750.00 for bid phase services. The cost of the construction-related services is a not-to-exceed amount of \$84,455.65. The proposed supplemental agreement is a not to exceed amount of \$94,405.65, which is the sum of these three numbers. Funding is expected to be from AIP Federal Grant funds; therefore a grant application has been prepared in the amount of \$744,210.00 for this project. The Airport's matching portion of five-percent will be funded with General Obligation bonds paid for with Airport Revenue. The existing budget will cover all costs.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through maintaining sufficient airport safety systems to serve the aviation community and continued acceptance of grant funding.

**Legal Considerations:** The supplemental agreement has been approved by the Law Department as to form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures. It is also recommended that the Wichita Airport Authority approve the grant application and receipt of funds, and authorize the Director of Airports to sign all the documents related to the grant.

**Attachments:** Three original signature copies and 12 distribution copies of the supplemental agreement and 12 distribution copies of the grant application.

CONTRACT  
for  
CONSULTING SERVICES  
between  
WICHITA AIRPORT AUTHORITY

and

HOWARD & HELMER architects p. a.  
d.b.a. HOWARD + HELMER ARCHITECTURE

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by and between the WICHITA AIRPORT AUTHORITY, Wichita, Kansas, party of the first part, hereinafter called the "OWNER" and Howard + Helmer Architecture, 3500 North Rock Road, Building 500, Wichita, Kansas, party of the second part, hereinafter called the "CONSULTANT".

WITNESSETH: That,

WHEREAS the OWNER is engaged in the operation of Wichita Mid-Continent Airport; and whereas it is the desire of both parties that the CONSULTANT furnish consulting services in conjunction with the HVAC UPGRADE AND RE-ROOF OF 1761 AIRPORT ROAD (PROJECT); and whereas all of the aforesaid being located within the corporate limits of the City of Wichita, Sedgwick County, Kansas, and

WHEREAS, the OWNER is authorized by law to employ a consultant to provide professional consulting services NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES:

The Scope of Services to be performed by the CONSULTANT shall be as outlined in EXHIBIT A.

ARTICLE II - THE CONSULTANT AGREES:

- A. To provide the professional services, equipment, material and transportation to perform the tasks as outlined in Article I, SCOPE OF SERVICES.
- B. To designate a project manager who will coordinate all work and be the point of contact for communications and to submit qualifications of the proposed project manager to the OWNER in advance of the Notice to Proceed. The OWNER reserves the right to withhold the Notice to Proceed until a qualified project manager is designated. The OWNER shall concur with any changes to this assignment.
- C. This Agreement and all subconsultant agreements shall be governed by the laws of the State of Kansas.
- D. To submit to the OWNER in a timely manner, editable, electronic files of all surveys and drawings in AutoCAD format and specifications in Microsoft Word.

- E. To save and hold OWNER harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by negligent acts, errors or omissions of CONSULTANT, its agents, servants, employees, or subconsultants occurring in the performance of its services under this Agreement.
- F. To maintain all books, documents, papers, accounting records, and to make such material available at the CONSULTANT'S office at reasonable times during the contract period, and for three years from the date of final payment under the Agreement, for inspection and/or duplication by the OWNER or authorized representatives.
- G. That the CONSULTANT shall not, on the grounds of race, color, sex, national origin, age or handicap, discriminate or permit discrimination in violation of any federal, state or local laws or of Part 21 of the regulations of the Office of the United States Department of Transportation (49 CFR 21). The CONSULTANT, in performing the work or services required pursuant to this Agreement, shall not participate either directly or indirectly in discriminations prohibited by the non-discrimination requirements of the City of Wichita, Kansas, as set out in EXHIBIT B. The OWNER reserves the right to take such action as the United States Government or any state or local government may direct to enforce this covenant.

The CONSULTANT assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The CONSULTANT assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The CONSULTANT assures that it will require that their covered suborganizations provide assurances to the OWNER that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

- H. To accept compensation for the work herein described in such amounts and at such periods as hereinafter provided and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work described in EXHIBIT A.
- I. To submit billings to the OWNER for the Services performed as required by this Agreement. Billings shall not exceed progress of work as evidenced by deliverables submitted by the CONSULTANT and approved by the OWNER. During the progress of work covered by the Agreement, partial payment requests may be made at intervals of not less than four weeks. The progress billings shall be supported by documentation acceptable to the OWNER, which shall include a record of the percentage completion evidenced by approved deliverables, of the number of days allocated for completion of the work, the number of days that have elapsed, and the number of days that remain to complete the work. Progress billings shall also include copies of subconsultant invoices to the CONSULTANT for the same billing period. Payment to subconsultants, for satisfactory performance shall be made within 30 days of receipt of payment and no retainage shall be withheld. Any delay or postponement of payment from the referenced time frame may occur only for good cause and following written approval of the OWNER.
- J. To complete and deliver plans to the OWNER within the time allotted for the work as stipulated herein; except that the CONSULTANT shall not be responsible or held liable for the time required for reviews for the approving parties or other delays occasioned by the actions or

inactions of the OWNER or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT. The schedule is outlined in EXHIBIT C, attached hereto and incorporated herein by reference.

- K. To covenant and represent to be responsible for the professional and technical accuracy and the coordination of all drawings or other work or material furnished by the CONSULTANT under this Agreement.

CONSULTANT further agrees, covenants and represents that Services furnished by CONSULTANT, its agents, employees and subconsultants under this Agreement shall be free from negligent errors or omissions.

CONSULTANT further agrees, covenants and represents, that all specifications and bid documents prepared in accordance with the work required by this Agreement shall contain a clause that provides the following:

"Notwithstanding any thing to the contrary contained in these bid documents or the contract to be awarded herein, the OWNER shall not be subject to arbitration and any clause relating to arbitration contained in these bid documents or in the contract to be awarded herein shall be null and void."

- L. To procure and maintain such insurance as will protect the CONSULTANT from damages resulting from negligent acts of the CONSULTANT, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this Agreement and for which they are legally liable. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to deductible of not more than \$100,000.00. The CONSULTANT shall be responsible for payment of all deductible amounts without reimbursement by OWNER. In addition, a Worker's Compensation and Employer's Liability policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Worker's Compensation Law. The liability limit shall not be less than \$500,000 for each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the CONSULTANT for the duration of the project that shall be written in a comprehensive form and shall protect CONSULTANT against all claims arising from injuries to persons (other than CONSULTANT'S employees) or damage to property of the OWNER or others arising out of any negligent act or omission of CONSULTANT, its agents, officers, employees, or subcontractors in the performance of CONSULTANT services under this Agreement. The liability limit shall not be less than \$500,000 per occurrence for bodily injury, death and property damage. The Wichita Airport Authority, Wichita, Kansas; the City of Wichita; their officers, employees and agents shall be named as additional insureds under the terms of the policy with respect to the names insurer's operations on Wichita Mid-Continent Airport or Colonel James Jabara Airport, whichever is applicable. Satisfactory Certificates of Insurance shall be filed with the OWNER prior to the time CONSULTANT starts any work under this Agreement. The CONSULTANT shall maintain such insurance through the duration of the PROJECT. In addition, insurance policies applicable hereto shall contain a provision that provides that the OWNER shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or cancelled.

- M. Its agents, employees and subcontractors, shall be subject to any and all applicable rules, regulations, orders and restrictions which are now in effect and which apply to its activities on Airport property, including such rules, regulations, orders and/or restrictions that may be adopted, enacted or amended during the term of this Agreement.
- N. That all information provided by the OWNER and/or developed for the PROJECT shall be considered confidential and proprietary, and shall not be reproduced, transmitted, used or disclosed by the CONSULTANT without the written consent of OWNER, except as may be necessary for the non-disclosing party to fulfill its obligations hereunder; provided, however, that the limitation shall not apply to any information or portion thereof, which is:
  - 1. Within the public domain at the time of its disclosure.
  - 2. Required to be disclosed by a court of competent jurisdiction or Government order.
  - 3. Approved by the OWNER for publicity.
  - 4. Required to be communicated in connection with filings with governmental bodies having jurisdiction over the design or construction of the PROJECT.

ARTICLE III - THE OWNER AGREES:

- A. To furnish all available data pertaining to the PROJECT available to the OWNER. All data shall be considered confidential unless otherwise noted.
- B. To provide standards, as available, for the PROJECT.
- C. To pay the CONSULTANT for services in accordance with the requirements of this Agreement within thirty (30) working days from the date of receipt of invoice and upon satisfactory performance of service.
- D. To provide the right of entry into secured areas for CONSULTANT'S personnel, subject to all rules and regulations of the OWNER, the Transportation Security Administration and Federal Aviation Administration regarding airfield safety and security.
- E. To pay all applicable design phase fees, unless otherwise stated herein.
- F. To abate asbestos, as needed, within the work zone.

ARTICLE IV - PAYMENT PROVISIONS:

- A. Payment to the CONSULTANT is a total of \$68,905.00 for performance of the specified services shall be as described hereinafter:
  - 1. Payment to the CONSULTANT for the performance of design services shall be a lump sum fee amount of \$62,980.00. (EXHIBIT D)
  - 2. Payment to the CONSULTANT for the performance of the bid phase services shall be a lump sum fee amount of \$5925.00. (EXHIBIT D)

3. Payment to the CONSULTANT for the performance of the construction phase services shall be a cost plus fixed fee to be negotiated at a later date.
- B. If an addition or deduction of work should be necessary, by virtue of a change in the scope of the proposed PROJECT, or by the OWNER'S request for a change in services, the CONSULTANT will be given written notice by the OWNER along with a request for a fee for the change in such services; but no additional work shall be performed, nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.
- C. Final payment shall not occur until all work is complete and approved by the OWNER.

ARTICLE V - THE PARTIES HERETO MUTUALLY AGREE:

A. TERMINATION OF CONTRACT

1. That the right is reserved to the OWNER to terminate this Agreement or any portion of phase of this Agreement at any time, upon written notice, in the event the PROJECT is to be abandoned; PROVIDED, however, that in such case the CONSULTANT shall be paid the reasonable value of the Services rendered up to the time of termination on the basis of the provisions of this Agreement, but in no case shall payment be more than the CONSULTANT'S actual costs plus a reasonable sum for profit. Upon receipt of such notice, Services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Agreement, whether completed or in progress, delivered to the OWNER and become the possession of the OWNER.
  2. Any violation or breach of the terms of this Agreement on the part of the CONSULTANT or subconsultant(s) may result in the suspension or termination of this Agreement or such other action, which may be necessary to enforce the rights of the parties of this Agreement. In such case, the OWNER may take possession of all materials as may have been accumulated in performing this Agreement, whether completed or in progress and take over the work and prosecute the same to completion, by separate agreement or otherwise, for the account and at the expense of the CONSULTANT. The CONSULTANT shall be liable to the OWNER for those costs associated with the remedy of the breach of terms.
  3. The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- B. That the specifications, plans and other deliverables shall become the property of the OWNER upon delivery or termination of the Services in accordance with this Agreement. The OWNER shall not hold the CONSULTANT liable upon the OWNER'S reuse of any part of deliverables, and there shall be no restriction or limitation on their further use by the OWNER. Consultant's seal and name shall not be reproduced on such documents if reused by the OWNER.
- C. That the services to be performed by the CONSULTANT under the terms of this Agreement are personal and cannot be assigned, sublet or transferred without specific consent of the OWNER.

- D. In the event of unavoidable delays in the progress of the work, reasonable extensions in the time will be granted by the OWNER, provided, however, that the CONSULTANT shall request extensions in writing giving the reason therefore.
- E. Unless otherwise provided in this Agreement, the CONSULTANT and agents, servants, employees, or subconsultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.
- F. It is further agreed that this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.
- G. For good cause, and as consideration for executing this Agreement, the CONSULTANT, acting herein by and through its authorized agent, hereby conveys, sells, assigns, and transfers to the OWNER all right, title, and interest in and to all causes of action it may now or hereafter require under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the OWNER pursuant to this Agreement.
- H. Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the CONSULTANT under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.
- I. It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damage pursuant to the terms of provisions of this Agreement.
- J. The CONSULTANT hereby certifies that:
1. The CONSULTANT has not employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above CONSULTANT) to solicit or secure this Agreement.
  2. The CONSULTANT has not agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement.
  3. The CONSULTANT has not paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for the CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if any).
  4. By acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the

CONSULTANT or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this Agreement.

IN WITNESS WHEREOF, the OWNER and the CONSULTANT have executed this Agreement as of the date first written above.

ATTEST:

WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By: \_\_\_\_\_  
Karen Sublett, City Clerk

By: \_\_\_\_\_  
Carl Brewer, President  
"OWNER"

By: \_\_\_\_\_  
Victor D. White, Director of Airports

ATTEST:

Howard + Helmer Architecture  
3500 North Rock Road, Building 500  
Wichita, Kansas

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Rodney P. Souders  
Title: Vice President  
"CONSULTANT"

APPROVED AS TO FORM: Wany E. DeBeauvoir Date: \_\_\_\_\_  
Director of Law

- ATTACHMENTS: EXHIBIT A – Scope of Services  
EXHIBIT B – Equal Employment Opportunity  
EXHIBIT C – Project Schedule  
EXHIBIT D – Fee Schedule

## EXHIBIT A

### SCOPE OF SERVICE

#### DESIGN, BID AND CONSTRUCTION PHASE

#### PROJECT SPECIFICS

##### MAJOR WORK ITEMS – CIVIL

1. Coordinate utility locations with Kansas One Call.
2. Prepare site utility plan to document utilities.

##### MAJOR WORK ITEMS – ARCHITECTURAL

1. Reroof 1761 Airport Road Building and Generator Building.
2. Improve site drainage away from building at north courtyard.
3. Modify ceiling grid as required by mechanical rework.
4. Remove chiller foundation and screen wall.

##### MAJOR WORK ITEMS – MECHANICAL & STRUCTURAL

1. Demolition of existing heat pumps, boiler, pumps, cooling tower, and water distribution system.
2. Selection of new roof mounted equipment for air conditioning and heating.
3. New duct distribution systems.
4. New gas service to building.
5. Structural evaluation, support of roof mounted equipment, and penetrations in existing structure for mechanical equipment.

##### MAJOR WORK ITEMS – ELECTRICAL

1. Demolition of existing electrical components associated with mechanical equipment to be removed.
2. Design of electrical circuit requirements for new mechanical equipment.
3. Modifications to existing electrical distribution as required for new mechanical circuits.
4. Modify lighting layouts per new ceiling grid in areas where existing grid is being removed.
5. Modify fire alarm system to include new duct detectors.

##### ELECTRICAL EXCLUSIONS

1. Recircuiting of existing lighting.
2. Modification of electrical distribution system i.e. deletion of existing generator standby system.

### INTRODUCTION

The Consultant shall furnish professional services as required for the development of plans, supplemental specifications and construction cost estimates for the project in the format and detail required by the Wichita Airport Authority (Owner). Plans shall be prepared on architectural standard sized sheets, unless otherwise allowed. The Consultant's project manager shall be a professional architect licensed by the State of Kansas and experienced to do the work.

The services provided shall be a cost-effective design that may have had alternatives evaluated by the Consultant, where applicable. If alternates are evaluated an estimated construction cost estimate comparing the alternatives shall be part of a pre-design submittal. Incidental services may include such items as design approvals by applicable departments and agencies, construction phasing, etc. The Consultant shall provide minutes of all meetings within five days of such events.

The Owner shall pay for any design phase plan review and permitting fees. The Consultant shall submit plans and otherwise make arrangements with all review agencies.

Field notes and other pertinent project records are to be provided to the Owner via hard copies, floppy diskettes, CD-ROM, or other acceptable media, all labeled. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved by Airport Engineering during the preliminary design phase. Text fonts other than standard AutoCAD files are to be included with drawing files.

#### PHASE I – DESIGN PHASE

1. Pre-Design: Prior to the start of design the Consultant shall meet with Airport staff for a pre-design meeting. In addition to covering the elements of the project the pre-design meeting shall be used to acquaint the Consultant with airport procedures.
2. Data Collection/Surveys: Provide technical personnel and equipment to obtain data as required for the design. Airport Engineering staff will provide available record drawings and prior relevant studies.
3. Preliminary Design: Submit two copies of the preliminary design for review. A preliminary construction cost estimate shall be a part of this submittal. Consultant shall meet with airport staff to discuss the submittal.
4. Office Check: Submit two copies of the office check plans and applicable supplemental technical specifications for review. Airport Engineering staff shall provide the specifications PART I, BIDDING/CONTRACTING INFORMATION and PART II, GENERAL CONDITIONS. The Consultant shall assist with preparing the bid form and miscellaneous activities to allow airport staff to assemble a complete specification. Developing the technical specifications shall be considered part of the Consultants responsibility. An updated construction cost estimate shall be a part of this submittal. Consultant shall meet with airport staff to discuss the submittal and field check the plans with the staff.

On projects needing design phase permits (such as the FAA Form 7460-1, Notice of Proposed Construction or Alteration or the Discharge from Construction Activities NPDES General Permit for Storm Water) the Consultant shall assist Airport Engineering staff in preparing the application(s). Airport Engineering staff will make the actual application. Consultant shall submit any documents for building permit(s).

5. Final Design: Prepare plans and technical specifications along with an itemized construction cost estimate (in a format that can be electronically transferred into the

City's bid form) that will be considered the official Architect's Opinion of Probable Construction Cost. Deliver the original tracings, and a hard copy of the technical specifications to the Airport for printing. Also deliver an e-file of the plans and specifications. The Architect shall provide internal quality control from the design team including constructability reviews.

#### PHASE II -- BIDDING PHASE

6. Pre-Bid Meeting: Consultant shall facilitate the pre-bid meeting, at the airport. Included with this meeting will be a site tour the Consultant will attend and explain the project.
7. Bidding Period: Consultant shall be responsible to answer technical questions and develop addenda items. The Owner will issue the addenda and bid the project.
8. Construction Cost Estimate: Provide an updated construction cost estimate, if required.

#### PHASE III -- CONSTRUCTION RELATED SERVICES PHASE

9. Pre-Construction Meeting: Consultant shall facilitate the pre-construction conference. Airport staff will provide briefings for such items as airport safety, security, operational and environmental.
10. Construction Period: Consultant shall provide these services:
  - Shop drawing reviews.
  - Periodic and final pay request reviews.
  - Answer technical questions.
  - Evaluate testing for acceptance.
  - Prepare change orders, if appropriate.
  - Site visits and documentation to the extent the Consultant observes key and critical elements of the construction and is able to provide a Certificate of Acceptance on the work. On-site weekly project meetings and resolution of technical issues are considered part of this item.
  - Final inspection.
11. Post Construction: Consultant shall prepare record drawings and furnish one set of reproducible drawings and an electronic file.

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

(March 27, 2008)

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
  
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT C  
PROJECT SCHEDULE

**DESIGN PHASE**

50% Review	45 days after Notice to Proceed
90% Review	30 days after Owner 50% Review Meeting
100% Bidding Documents	10 days after Owner 90% Review Meeting

EXHIBIT D  
FEE SCHEDULE

**Design Phase**

	Hours	Rate	Fees
<b>Architectural:</b>			
Principal	40	\$121	\$4,840
Architect	100	\$92	\$9,200
CADD Technician	100	\$69	\$6,900
Admin. Assistant	20	\$48	\$960
<b>Consultants:</b>			
Mechanical Engineer	180		\$17,600
CADD Technician	100		\$6,800
Electrical Engineer	70		\$6,860
CADD Technician	40		\$2,720
Structural Engineer	35		\$3,500
CADD Technician	25		\$1,500
Civil Engineer	10		\$1,000
CADD Technician	5		\$300
<b>Reimbursable Expenses:</b>			
Printing, fax, phone, mileage	---		\$800
<b>TOTAL CONSTRUCTION DOCUMENT PHASE SERVICES:</b>			<b>\$62,980</b>
<b>Bidding Phase</b>			
Architectural	25		\$3,025
Mechanical	15		\$1,500
Electrical	7		\$700
Structural	5		\$500
Reimbursable Expenses			\$200
<b>TOTAL BIDDING PHASE SERVICES:</b>			<b><u>\$5,925</u></b>
<b>TOTAL FEE:</b>			<b>\$68,905</b>

**City of Wichita  
City Council Meeting  
May 20, 2008**

**TO:** Wichita Airport Authority

**SUBJECT:** Tenant Facility Improvements  
1761 Airport Road  
Wichita Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

---

**Recommendation:** Approve the project and the design contract.

**Background:** The Federal Aviation Administration (FAA) currently leases the facility located at 1761 Airport Road. The FAA is desirous of making improvements according to its lease. The project is included in the 2008-2016 Capital Improvements Program (CIP).

**Analysis:** Airport staff has studied the current needs of the building as required under the lease agreement and has determined that improvements to this facility including an HVAC upgrade and a re-roof of the building are appropriate.

**Financial Considerations:** Howard and Helmer, Architects submitted the only proposal, the firm was qualified to provide professional services and the Staff Screening and Selection Committee concurred with Airport staff to enter into a contract. Their cost for design and bid phase services is \$68,905.00. The project cost of \$450,000 will be funded with General Obligation Bonds paid for with airport revenue.

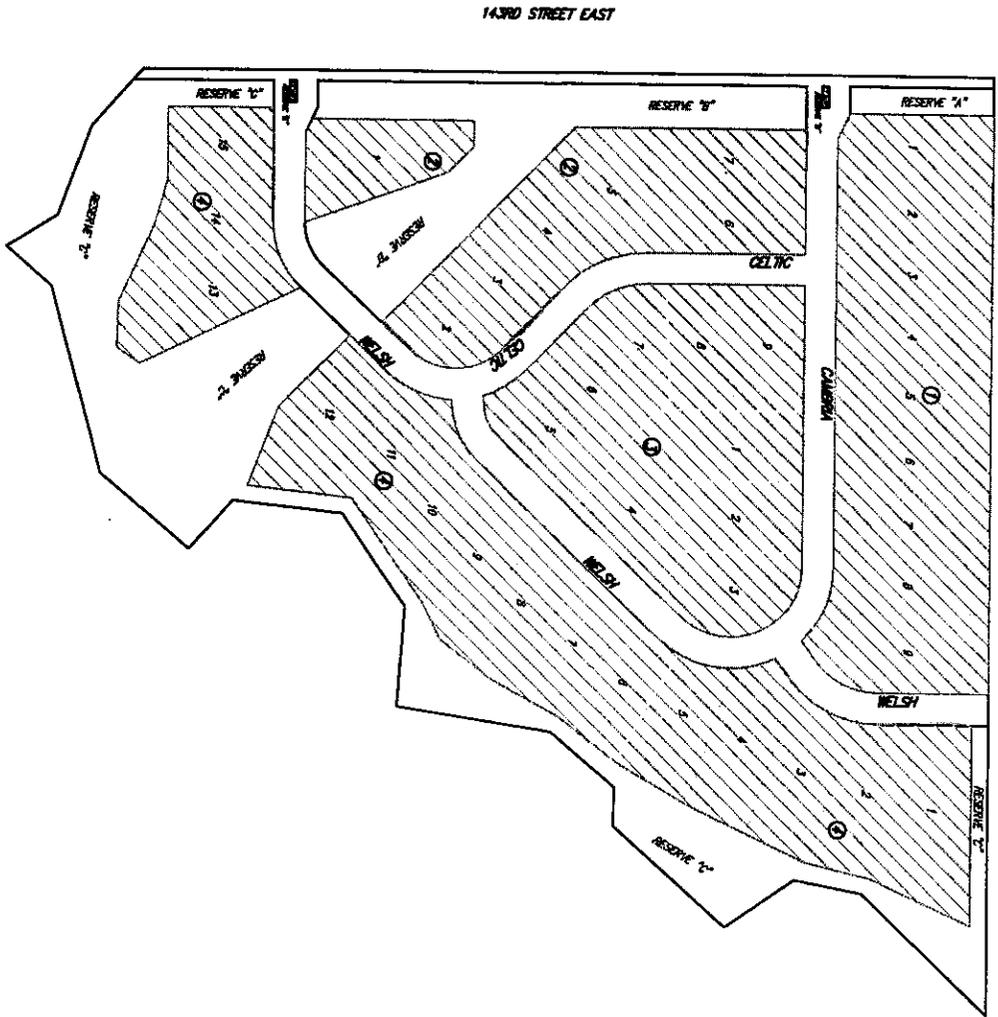
**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through accommodating tenants in allowing improvements to be made which will enhance the usefulness and marketability of WAA-owned facilities.

**Legal Considerations:** The design contract has been approved as to legal form.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the project and the contract and authorize the necessary signatures.

**Attachments:** Five original and 12 distribution copies of the contract.

# CAMBRIA ADDITION



PROPOSED IMPROVEMENT DISTRICT



( ACTUAL ALIGNMENT TO BE DETERMINED BY DESIGN ENGINEER )



**CAPITAL IMPROVEMENT**

**PROJECT AUTHORIZATION**

**CITY OF WICHITA**

USE:

To Initiate Project  
To Revise Project

	X
--	---

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

<b>1. Initiating Department</b> Public Works	<b>2. Initiating Division</b> Eng	<b>3. Date</b> 4/30/2008	<b>4. Project Description &amp; Location</b> Storm Water Drain for Cambria Addition
<b>5. CIP Project Number</b> NI-200424	<b>6. Accounting Number</b>	<b>7. CIP Project Date (Year)</b> 2008	<b>8. Approved by WCC Date</b>
<b>9. Estimated Start Date</b>	<b>10. Estimated Completion Date</b>	<b>11. Project Revised</b>	
<b>As Required</b>			
<b>12. Project Cost Estimate</b>			
<b>ITEM</b>	<b>GO</b>	<b>SA</b>	<b>OTHER *</b>
Right of Way			
Paving, Grading & const.			
Bridge & Culverts			
Drainage		\$575,000	\$575,000
Sanitary Sewer			
Sidewalk			
Water			
Other			
<b>Totals</b>		\$575,000	\$575,000
<b>Total CIP Amount Budgeted</b>			\$575,000
<b>Total Prelim. Estimate</b>			

12A.

	Yes	No
Platting Required	X	
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition  
\* Storm Water Utility  
SWD 345  
468-84481

13. Recommendation: Approve the petition and Adopt the resolution

<b>Division Head</b> <i>Sandy Jones</i> for Jim Arnouk	<b>Department Head</b> <i>[Signature]</i>	<b>Budget Officer</b> <i>[Signature]</i>	<b>City Manager</b>
		<b>Date</b> 5/7/08	<b>Date</b>

RECEIVED

MAY 02 '08

CITY CLERK OFFICE

STORM WATER DRAIN PETITION

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

CAMBRIA ADDITION

SWD 345

Lots 1 - 9, Block 1  
Lots 1 - 7, Block 2  
Lots 1 - 9, Block 3  
Lots 1 - 15, Block 4

4-68-84481

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a storm water sewer system to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements being Five Hundred Seventy Five Thousand Dollars (\$575,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after January 1, 2008.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

That the following described lots shall each pay 1/40 of the total cost payable by the improvement district:

**CAMBRIA ADDITION**

Lots 1 - 9, Block 1  
Lots 1 - 7, Block 2  
Lots 1 - 9, Block 3  
Lots 1 - 15, Block 4

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 12-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.
3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>CAMBRIA ADDITION</u></b>		4/29/08
Lots 1 - 9, Block 1		
Lots 1 - 7, Block 2		
Lots 1 - 9, Block 3		
Lots 1 - 15, Block 4		

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief.

Bill Moran  
Name

7311 Motors

PW - Eng  
Address

4548  
Telephone Number

Sworn to and subscribed before me this 2 day of May, 2008.

Anis Edwards  
Deputy City Clerk



City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Petition for Storm Water Drain in Cambria Addition (east of 143<sup>rd</sup> St. East, north of Pawnee) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

-----  
**Recommendation:** Approve the new Petition.

**Background:** On February 5, 2008, the City Council approved a petition for a storm water drain in Cambria Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the Petition represents 100% of the improvement district.

**Analysis:** The project will construct a storm water drain in a new residential development located east of 143<sup>rd</sup> St. East, north of Pawnee.

**Financial Considerations:** The existing Petition totals \$491,000. The new Petition totals \$575,000. The funding source is special assessments.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing drainage improvements required for a new residential development.

**Legal Considerations:** State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

**Recommendations/Actions:** It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, CIP Sheet, Petition and Resolution.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING **STORM WATER DRAIN NO. 345 (EAST OF 143RD ST. EAST, NORTH OF PAWNEE) 468-84481** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **STORM WATER DRAIN NO. 345 (EAST OF 143RD ST. EAST, NORTH OF PAWNEE) 468-84481** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **08-056** adopted on **February 5, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve **Storm Water Drain No. 345 (east of 143rd St. East, north of Pawnee) 468-84481**.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Five Hundred Seventy-Five Thousand Dollars (\$575,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **January 1, 2008**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**CAMBRIA ADDITION**

Lots 1 through 9, Block 1

Lots 1 through 7, Block 2

Lots 1 through 9, Block 3

Lots 1 through 15, Block 4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 9, Block 1; Lots 1 through 7, Block 2; Lots 1 through 9, Block 3; and Lots 1 through 15, Block 4, CAMBRIA ADDITION, shall each pay 1/40 of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_ day of

\_\_\_\_\_ 2008.

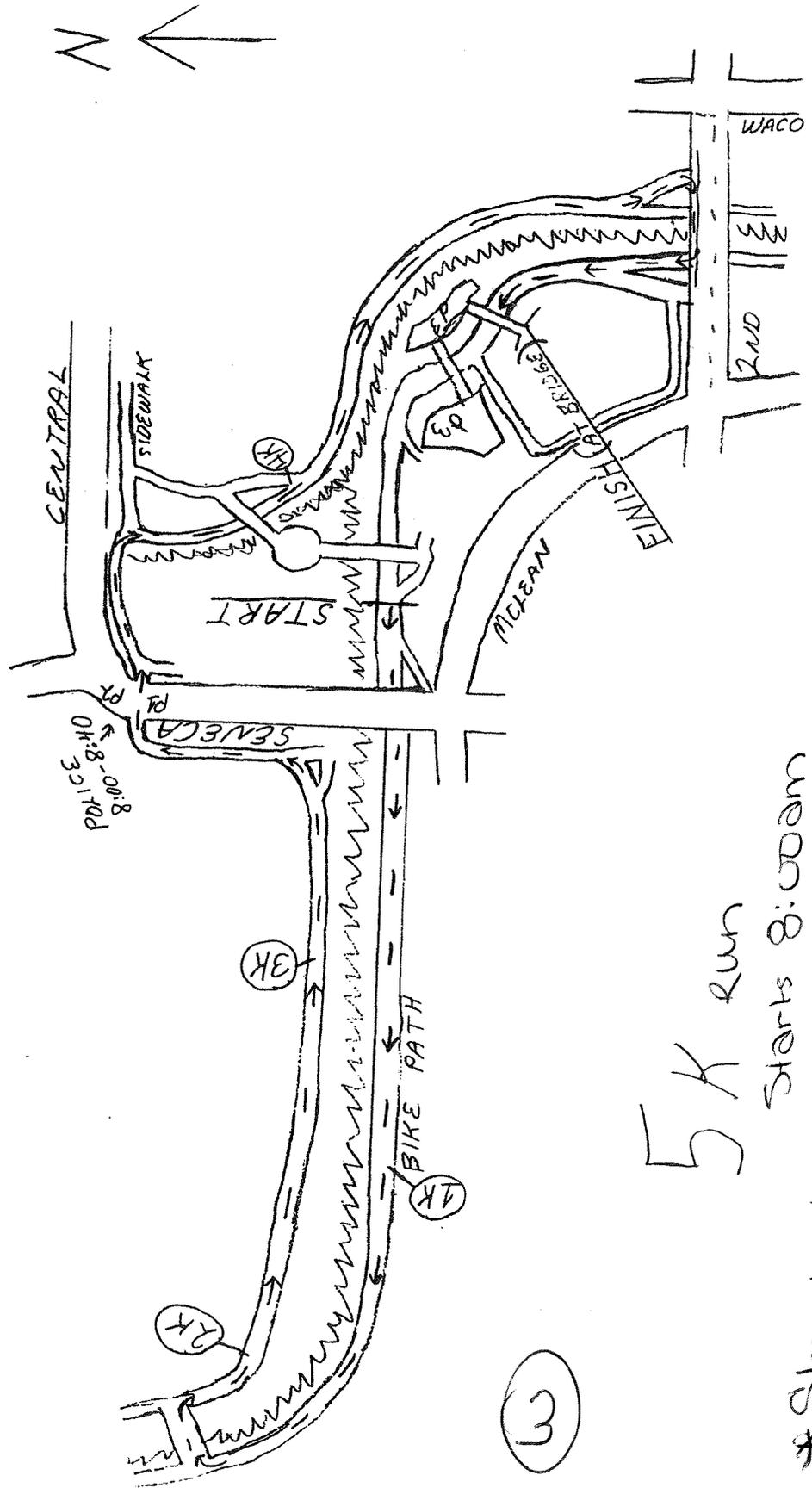
\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

Attach: "B"



5K Run

Starts 8:00am

\* Street closed - 2nd Street Waco → McLean 8-9:30am  
(West bound lane)

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council  
**SUBJECT:** Community Events  
**INITIATED BY:** Division of Arts & Cultural Services (District IV & VI)  
**AGENDA:** Consent

---

**Recommendation:** Approve the request for street closures.

**Background:** In accordance with the Community Events Procedure, the event promoter Judy Lee Carter, Victory in the Valley. is coordinating with City of Wichita Staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Victory in the Valley East Meets West Run/Walk May 31, 2008, 8:00 am – 9:30 am**

- 2<sup>nd</sup> Street, Waco to Mclean, west bound lanes
  - Seneca Street, Central to McLean, north bound lanes
- Please see attached map.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

**Financial Consideration:** The event sponsor is responsible for all costs associated with special event.

**Goal Impact:** Enhance the Quality of Life

**Legal Consideration:** None

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Supplemental Agreement for Staking in Wood North & Greenwich Business Center Additions (south of 29<sup>th</sup> Street North, west of 127<sup>th</sup> Street East) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Supplemental Agreement.

**Background:** The City Council approved the drainage improvements in Wood North and Greenwich Business Center Additions on February 5, 2008. On April 1, 2008 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

**Analysis:** The proposed Supplemental Agreement between the City and Baughman provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

**Financial Considerations:** Payment to Baughman will be on a lump sum basis of \$16,230 and will be paid by special assessments.

**Goal Impact:** This Supplemental Agreement addresses the Efficient Infrastructure goal by providing the engineering services needed for the construction of drainage improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

**Legal Considerations:** The Supplemental Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

**Attachments:** Supplemental Agreement

SUPPLEMENTAL AGREEMENT  
TO THE  
AGREEMENT FOR PROFESSIONAL SERVICES DATED APRIL 1, 2008  
BETWEEN  
THE CITY OF WICHITA, KANSAS  
PARTY OF THE FIRST PART, HEREINAFTER CALLED THE  
"CITY"  
AND  
BAUGHMAN COMPANY, P.A.  
PARTY OF THE SECOND PART, HEREINAFTER CALLED THE  
"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated April 1, 2008) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in **WOOD NORTH & GREENWICH BUSINESS CENTER ADDITIONS** (south of 29<sup>th</sup> Street North, west of 127<sup>th</sup> Street East).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

**STAKING & AS-BUILT**

(as per the City of Wichita Standard Construction Engineering Practices)

**STORM WATER DRAIN NO. 346** serving Lots 1 through 46, Block A; Lots 1 through 5, Block B; Lots 1 through 8, Block C; Lots 1 through 34, Block D; Lots 60 through 71, Block D, Lots 9 through 14, Block E; Lots 1 through 12, Block F, Woods North Addition; Lots 3 and 4, Block 2; Lots 1 through 15, Block 3; Lots 1 through 3, Block 4, Greenwich Business Center Addition (south of 29<sup>th</sup> Street North, west of 127<sup>th</sup> Street East) (Project No. 468 84487).

Construction staking and final as-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER, with final as-built plans submitted and sealed by a licensed land surveyor or registered professional engineer. Minimum construction staking shall consist of the following: grade stakes set at 50 foot centers in tangent sections, and 25 foot centers through curve sections, at the street centerline (to match CL street stationing per paving plans); both right-of-way lines (at lot corners); back lot/easement lines (at lot corners); as well as any other grade break lines. Grade stake cuts and fills shall be to the dirt grade as required by the mass grading plan details, and shall not be set for final pavement grade, nor to actual final subgrade elevation. Final elevations for all areas outside the street right-of-way to be graded per plans, provisions or otherwise, including lots, easements, ponds and reserve areas, shall be within +/-0.2' of plan call-outs, unless otherwise stated

in plans or provisions. Final elevations within the street right-of-way shall be within +/-0.1' of plan call-outs. The ENGINEER will be responsible to provide initial as-built(s) to the City's Project Engineer, who will coordinate any rework with the contractor. The ENGINEER'S survey and as-built generation responsibilities will include re-checking all points deemed to be out of compliance by the City project engineer, regardless of the number of times to achieve compliance. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the Project Engineer within 5 days of completion of final grading, will show original plan and final as-built elevations at all original call-out locations. Submittals will include both standard plan sheets as well as an electronic file.

**B. PAYMENT PROVISIONS**

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

Project No. 468 84487                      **\$16,230.00**

**C. PROVISIONS OF THE ORIGINAL CONTRACT**

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

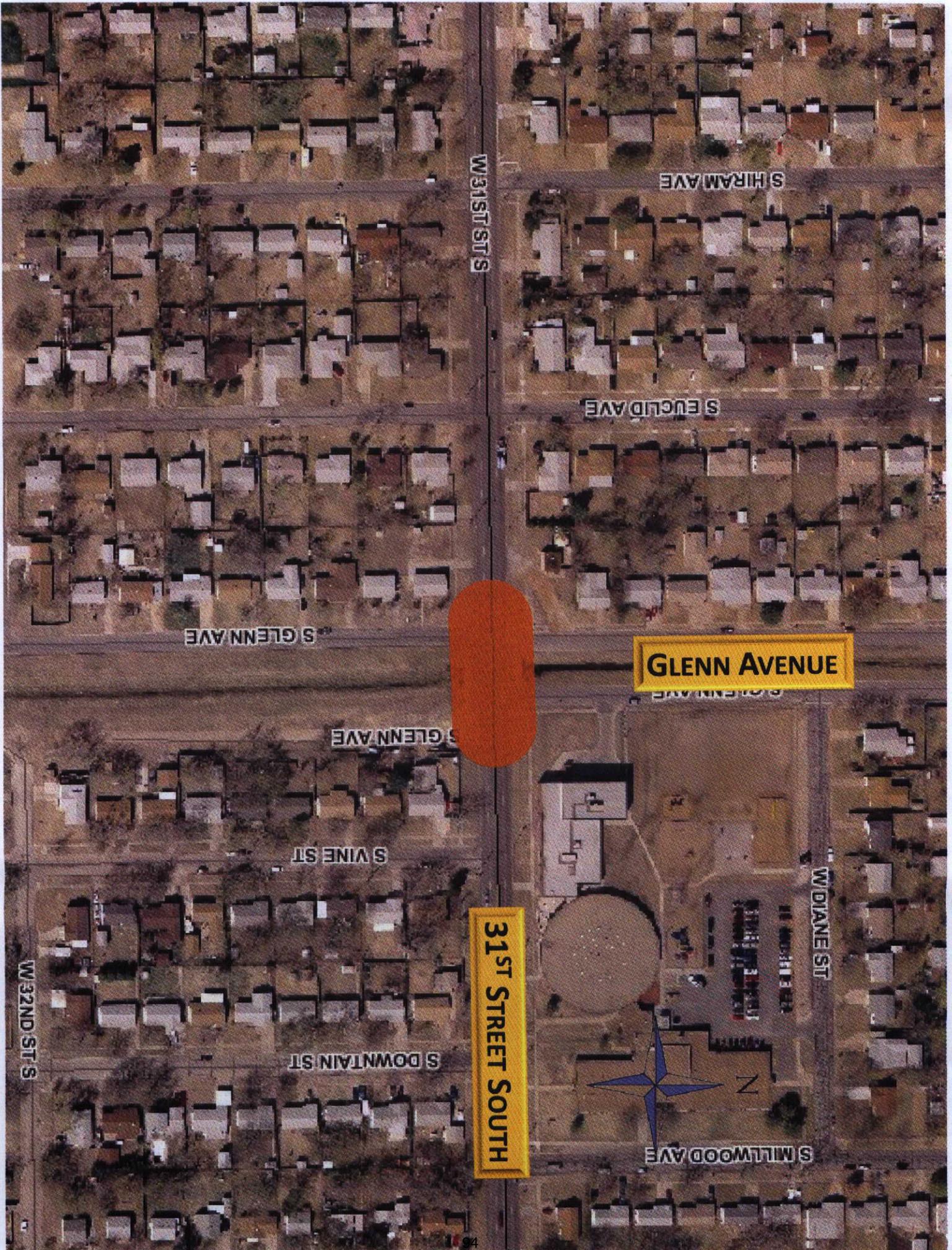
\_\_\_\_\_  
Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

\_\_\_\_\_  
N. Brent Wooten, President

ATTEST:

\_\_\_\_\_



**GLENN AVENUE**

**31ST STREET SOUTH**



**CAPITAL IMPROVEMENT**

**PROJECT AUTHORIZATION**

**CITY OF WICHITA**

USE:

To Initiate Project

To Revise Project

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 4/28/2008	4. Project Description & Location 31st St South Bridge at Glenn	
5. CIP Project Number B-	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date			
As Required	11. Project Revised			
12. Project Cost Estimate				
ITEM	GO	County	KDOT	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts	\$55,000			\$55,000
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Study				
Totals	\$55,000			\$55,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				472-84702

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Remarks:  
Design Only  
\* KDOT

13. Recommendation: Approve the project and ordinance

Division Head

*Ray Jones*  
for Jim Arnold

Department Head

*Chris M. C.*

Budget Officer

*[Signature]*

City Manager

Date

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PB AMERICAS, INC.

for

31<sup>ST</sup> STREET BRIDGE AT GLENN

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PB AMERICAS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

31<sup>ST</sup> STREET BRIDGE AT GLENN  
(Project No. 472 84702)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements to the 31<sup>st</sup> Street Bridge at Glenn and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project

Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 84702                      \$45,939.00

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:

Accumulated partial payments shall not exceed \$22,969.50 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$32,157.30 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed \$36,751.20 (eighty percent of the maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.

Accumulated partial payments for the PROJECT shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  2. Additional design services not covered by the scope of this agreement.
  3. Construction staking, material testing, inspection and administration related to the PROJECT.
  4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carl Brewer, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

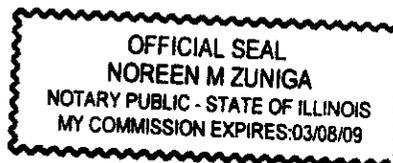
Gary Rebenstorf, Director of Law  
Gary Rebenstorf, Director of Law

PB AMERICAS, INC.

John Tustits, Vice President  
(Name & Title)

ATTEST:

Noreen M. Zuniga



## SCOPE OF SERVICES

### 31<sup>ST</sup> STREET BRIDGE AT GLENN (Project No. 472 84702)

**31<sup>ST</sup> STREET BRIDGE AT GLENN** - The ENGINEER shall provide professional services for reconstructing the bridge/box culvert. During the Discovery Phase the ENGINEER is to meet with the area businesses, DAB, the City's Design Council, City staff, and City Council to determine the project's scope of improvements, design criteria and to determine if the bridge can be reconstructed such that the resultant bridge is above the minimum level of service. A written document is to be prepared by the ENGINEER stating the scope of physical improvements to be included in the project, and design goals and issues to be addressed in the Concept Phase. In the Concept Phase the ENGINEER is to prepare conceptual design alternatives to respond to the design criteria and project scope identified and approved earlier in the Discovery Phase. The ENGINEER is to make presentations of the conceptual design alternatives to the associations and boards, City staff, and City Council; and revise the designs as necessary to secure approval by the City Council of a final concept. A preliminary cost estimate of the approved concept is to be prepared by the ENGINEER as part of the Concept Phase. This project will include coordination of the relocation of utilities as necessary. The sanitary sewer siphon beneath the box bridge shall be designed for replacement with PVC of appropriate size, and will remain as two pipes. The ENGINEER will also need to evaluate the location and condition of the manholes on either side of the siphon to see if rehabilitation or replacement is necessary (see Attachment A - 31<sup>st</sup> & Glenn). Specific water line relocations are not anticipated. This project is not expected to have State or Federal funding.

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.

Associated improvements as part of these projects will include permanent traffic signalization system improvements (if required), permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing (when applicable), incidental drainage, sidewalk (when required), identification of additional right-of-way (if required) and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita and the Kansas Department of Transportation (KDOT), and the U.S. Army Corps of Engineers, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept. A landscape architect should be included on the Consultants' Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved.

In addition, the ENGINEER will notify the City Archaeologist, at 316-978-3195 prior to beginning work on this project.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.
2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line Alignments and Profiles. Preliminary water alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work.
6. Right-of-Way. Identify right-of-way requirements for the preliminary concepts developed. Such right-of-way requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in power point presentation.
8. S. I. & A. for Bridges. Perform initial and keep current the inspection/inventory and analysis for completion/update of the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT. ENGINEER shall also provide the CITY with a new S. I. & A. upon completion of the bridge construction, along with the Design Load Ratings ("Load Factor" method) and pictures, with one copy submitted to KDOT Bridge Engineer.
9. Landscape Plans. When the design has fulfilled the program requirements, submit three (3) sets of landscape plans to the CITY'S project manager. After the project manager approves

- the plans, he/she will submit two (2) sets to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment.
10. Design Council. ENGINEER shall meet with the City's Design Council, to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY and as agreed upon at Field Check and/or Office Check Review.

1. Design Council. ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise. (It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)
2. ULCC. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer.
3. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and three (3) sets of field check plans to the CITY and one copy of preliminary cost estimate and four (4) sets of field check plans to KDOT. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:
  - (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans. Coordination of utilities and pipelines for the PROJECT by the ENGINEER shall conform to current adopted policies of the City Engineer for Category II projects.
  - (b) Submit fifteen (15) sets of field check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of field check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.
  - (c) Soils and Foundation Investigations. The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall

be passed directly to the City of Wichita if not included in the ENGINEER'S fee estimate. However, all bridge projects shall include the cost of soils and boring investigations in the ENGINEER'S fee.

- (d) Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of all the right-of-way for utility relocations at a time directed by the CITY.
  - (e) Prepare legal descriptions for Right of Entry and submit drawings to the City that are suitable for mailing to property owners. Incorporate Right of Entry limits on the plans.
4. Office Check Plans. When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) Submit three (3) sets of office check plans to the CITY and, if required, two (2) sets of office check plans to KDOT, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and with KDOT when required.
  - (b) Identify all known utility conflicts. ENGINEER shall meet with utility company representatives as required to review the PROJECT design and interpret engineering drawings. Utility coordination procedures shall conform to current policy of the City Engineer.
  - (c) Submit fifteen (15) sets of office check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of office check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.
  - (d) Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
  - (e) Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
5. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
- (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals.
    - a. Electronic versions of the approved final plans for all projects need to be submitted on CD or DVD in both AutoCAD and .pdf format (.dwg format is preferred, .dxf is acceptable). Text fonts other than standard AutoCAD fonts are to be included with drawing files. Pdf files should be scalable to 22"x36" and oriented right side up.

- b. Two 11"x17" half-scale hardcopies of all plans are required. Four additional half-scale sets are required for all KDOT/Federally funded projects.
  - c. Mylar plans are required for all water projects and any plans that incorporate water line improvements (both CITY and KDOT). Mylar cover sheet only is required for all other KDOT/Federally funded projects for the signature purposes.
  - d. Field notes, other pertinent project mapping records, supplemental specifications, special provisions and cost estimates are to be provided to the City Engineer for the taking of bids as appropriate for the CITY and/or KDOT.
- (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to CITY or KDOT standards as applicable.
  - (e) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (f) All applicable coordinate control points and related project staking information shall be furnished on the plans, as well as on a CD-ROM in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
  - (g) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (h) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. Post Letting.
- (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) The Engineer shall complete permanent monumentation of all new RW, complete and submit all necessary legal documentation for same.
8. Project Milestone. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- (a) Concepts of the PROJECT by April 14, 2008.
  - (b) Field check plans of the PROJECT are due June 9, 2008.
  - (c) Office check plans are due September 8, 2008.
  - (d) Completion of all work required by this agreement (including submittal of final approved plan tracings, field notes, and related PROJECT documents) by October 20, 2008.

**Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

**Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Environmental Services  
1900 E. 9<sup>th</sup> St. North  
Wichita, KS 67214

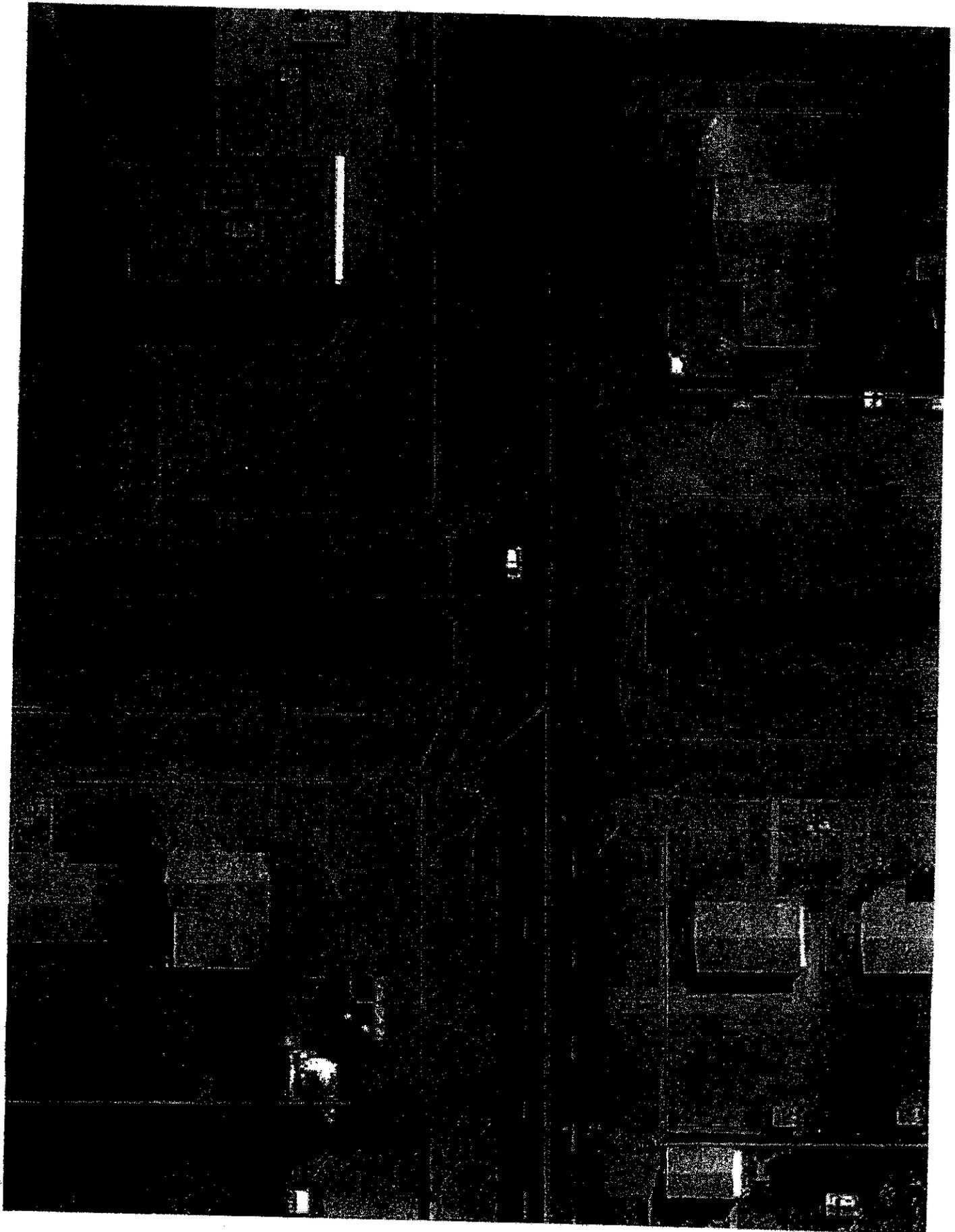
THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.



**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be

- canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Design Agreement: 31<sup>st</sup> Street South Bridge at Glenn  
(District IV)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the design agreement.

**Background:** The 2008 Capital Improvement Program includes funding to replace the 31<sup>st</sup> St. South bridge at Glenn Street. On February 19, 2008, the Staff Screening and Selection Committee selected PB Americas, Inc. to design the project

**Analysis:** The existing structure will be replaced with a wider bridge with sidewalks that are farther away from vehicular traffic.

**Financial Considerations:** The design budget is \$55,000. The design fee is \$45,939. The funding source is General Obligation Bonds.

**Goal Impact:** The project addresses the Efficient Infrastructure goal by replacing an aging bridge on an arterial street.

**Legal Considerations:** The Law Department has approved the design agreement and authorizing Ordinance as to legal form.

**Recommendation/Action:** It is recommended that the City Council approve the design project, place the Ordinance on first reading, approve the design agreement and authorize the signing of State/Federal agreements as required.

**Attachments:** Map, CIP Sheet, Ordinance, Agreement.

132019

First Published in the Wichita Eagle on

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE DECLARING THE **31ST STREET SOUTH BRIDGE AT GLENN (472-84702)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the **31st Street South Bridge at Glenn (472-84702)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to the **31st Street South Bridge at Glenn (472-84702)** as a main trafficway in the following particulars:

The design of a bridge as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvement is estimated to be **Fifty-Five Thousand Dollars (\$55,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita.

Said cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 4. The above described main trafficway improvement shall be made in accordance with Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvement described herein is hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for Design Services for Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West)(District V)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Agreement.

**Background:** The City Council approved the water, sewer and paving improvements in Silverton Addition on October 17, 2006.

**Analysis:** The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water, sewer and paving in Silverton Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

**Financial Considerations:** Payment to Baughman will be on a lump sum basis of \$115,600 and will be paid by special assessments.

**Goal Impact:** This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sewer and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

**Legal Considerations:** The Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

**Attachments:** Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

SILVERTON ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

**WATER DISTRIBUTION SYSTEM NO. 448 90239** serving Lots 21 through 48, Block A; Lots 29 through 48, Block C; Lots 1 through 17, Block F, Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 448 90239).

**WATER DISTRIBUTION SYSTEM NO. 448 90240** serving Lots 49 through 72, Block C; Lots 1 through 29, Block D; Lots 18 through 23, Block F, Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 448 90240).

**LATERAL 11, MAIN 4, NORTHWEST INTERCEPTOR SEWER** serving Lots 21 through 48, Block A; Lots 36 through 48, Block C; Lots 1 through 16, Block F, Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 468 84244).

**LATERAL 12, MAIN 4, NORTHWEST INTERCEPTOR SEWER** serving Lots 49 through 72, Block C; Lots 1 through 29, Block D; Lots 48 through 49, Block D; Lot 65 through 71, Block D, Silverton Addition (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 468 84245).

**RIDGEPOINT** from the west line of Nickelton, west to the east line of Decker; **DECKER** from the south line of the plat, north to the south line of Westport; **WESTPORT** from the east line of Decker, west to the west line of Lot 48, Block C; **WESTPORT COURT** from the north line of Westport north and east including the cul-de-sac; **DECKER COURT** from the east line of Decker, east to and including the cul-de-sac and that sidewalk be constructed on Ridgepoint, Decker and Westport (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 472 84460).

**WESTPORT** from the west line of Lot 48, Block C, west to the west line of Lot 23, Block F; **BELLICK** from the north line of Westport, north to the north line of the plat and on **BELLICK COURT** (Lots 1 through 19, Block D) from the west line of Bellick, west to and including the cul-de-sac; **BELLICK COURT** (Lots 61 through 72, Block C) from the east line of Bellick, east to and including the cul-de-sac and that sidewalk be constructed on Westport and Bellick (north of 13<sup>th</sup> Street North, west of 135<sup>th</sup> Street West) (Project No. 472 84461).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Silverton Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising

from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90239	<b><u>\$ 10,800.00</u></b>
Project No. 448 90240	<b><u>\$ 9,000.00</u></b>
Project No. 468 84244	<b><u>\$ 17,000.00</u></b>
Project No. 468 84245	<b><u>\$ 17,800.00</u></b>
Project No. 472 84460	<b><u>\$ 31,200.00</u></b>
Project No. 472 84461	<b><u>\$ 29,800.00</u></b>
<b>TOTAL</b>	<b><u>\$115,600.00</u></b>

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  2. Additional design services not covered by the scope of this agreement.
  3. Construction staking, material testing, inspection and administration related to the PROJECT.
  4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Carl Brewer, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

\_\_\_\_\_  
N. Brent Wooten, President

ATTEST:

\_\_\_\_\_

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1.

In connection with the services to be provided, the ENGINEER shall:

### A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.
3. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
8. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each in-

involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

9. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
10. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
11. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
12. The ENGINEER shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
14. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by **May 19, 2008**. (Project No. 448 90239).
  - b. Plan Development for the water improvements by **May 19, 2008**. (Project No. 448 90240).
  - c. Plan Development for the sewer improvements by **May 19, 2008**. (Project No. 468 84244).
  - d. Plan Development for the sewer improvements by **May 19, 2008**. (Project No. 468 84245).
  - e. Plan Development for the paving improvements by **July 14, 2008**. (Project No. 472 84460).
  - f. Plan Development for the paving improvements by **July 14, 2008**. (Project No. 472 84461).

## **Attachment No. 1 to Exhibit “A” – Scope of Services**

### **Plan Submittal**

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

Paper plan submittals for KDOT projects (i.e. Field Check, ULCC, Final Check, etc.) will not change and the cover sheet mylar will be required for all projects for signature purposes. Projects that have water lines incorporated into the project are required to have those pages in a mylar format. The complete project must be submitted in a scalable .pdf format.

In addition, two (2) sets of 11”x17” plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Environmental Services  
1900 E. 9<sup>th</sup> St. North  
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer’s estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City’s current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for Design Services for Cedar View Village Addition (east of Greenwich, south of Kellogg) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Agreement.

**Background:** The City Council approved the water, sewer, drainage and paving improvements in Cedar View Village on December 4, 2007.

**Analysis:** The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water, sewer, drainage and paving in Cedar View Village Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

**Financial Considerations:** Payment to MKEC will be on a lump sum basis of \$43,600 and will be paid by special assessments.

**Goal Impact:** This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sewer, drainage and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

**Legal Considerations:** The Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

**Attachments:** Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

CEDAR VIEW VILLAGE ADDITION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

**WATER DISTRIBUTION SYSTEM NO. 448 90348** serving Lots 1 through 12, Block 1; Lots 1 through 17, Block 2, Cedar View Village Addition (east of Greenwich, south of Kellogg) (Project No. 448 90348).

**LATERAL 408, FOUR MILE CREEK SEWER** serving Lots 1 through 12, Block 1; Lots 1 through 17, Block 2, Cedar View Village Addition (east of Greenwich, south of Kellogg) (Project No. 468 84462).

**STORM WATER SEWER NO. 640** serving Lots 1 through 12, Block 1; Lots 1 through 17, Block 2, Cedar View Village Addition (east of Greenwich, south of Kellogg) (Project No. 468 84464).

**STORM WATER DRAIN NO. 343** serving Lots 1 through 12, Block 1; Lots 1 through 17, Block 2, Cedar View Village Addition (east of Greenwich, south of Kellogg) (Project No. 468 84463).

**BRISTOL CIRCLE:** removal of existing pavement on and adjacent to Lots 7 and 8, Block 1; new pavement from the north line of Lincoln Street to a point 580' north of Lincoln Street connecting to existing pavement; construction of a cul-de-sac and emergency vehicle access gate at the west end adjacent to Lot 12, Block 1 and Lots 1 and 2, Block 2; and construction of an eyebrow adjacent to Lots 4 through 6, Block 2 (east of Greenwich, south of Kellogg) (Project No. 472 84637).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Cedar View Village Addition and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

- Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.
- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designat-

ed Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90348	\$ <b><u>4,250.00</u></b>
Project No. 468 84462	\$ <b><u>9,950.00</u></b>
Project No. 468 84464	\$ <b><u>13,500.00</u></b>
Project No. 468 84463	\$ <b><u>4,300.00</u></b>
Project No. 472 84637	\$ <b><u>11,600.00</u></b>
TOTAL	\$ <b><u>43,600.00</u></b>

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
 Carl Brewer, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
 Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
 Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

\_\_\_\_\_  
 (Name & Title)

ATTEST:

\_\_\_\_\_

## SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.
3. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
8. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each in-

volved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

9. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
10. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
11. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
12. The ENGINEER shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
14. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
  - a. Plan Development for the water improvements by **120 days from notice to proceed.**  
(Project No. 448 90348).
  - b. Plan Development for the sanitary sewer improvements by **120 days from notice to proceed.**  
(Project No. 468 84462).
  - c. Plan Development for the storm water sewer improvements by **120 days from notice to proceed.**  
(Project No. 468 84464).
  - d. Plan Development for the storm water drainage improvements by **120 days from notice to proceed.**  
(Project No. 472 84463).
  - e. Plan Development for the paving improvements by **120 days from notice to proceed.**  
(Project No. 472 84637).

## **Attachment No. 1 to Exhibit “A” – Scope of Services**

### **Plan Submittal**

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

Paper plan submittals for KDOT projects (i.e. Field Check, ULCC, Final Check, etc.) will not change and the cover sheet mylar will be required for all projects for signature purposes. Projects that have water lines incorporated into the project are required to have those pages in a mylar format. The complete project must be submitted in a scalable .pdf format.

In addition, two (2) sets of 11”x17” plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Environmental Services  
1900 E. 9<sup>th</sup> St. North  
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer’s estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City’s current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

**GROUP # 3**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **1314 N. Lorraine** and legally described as: The South 12 1/2 feet of Lot 36 and all of Lot 38, on Lorraine Avenue, in Fairmount Park Addition to Wichita, Sedgwick County, Kansas, is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure: A one story frame dwelling about 35x38 feet in size. Vacant for an undetermined amount of time, this structure has shifting and cracking concrete block basement walls; rotted and missing asbestos siding; rotted wood trim; and the 10x16 foot accessory is deteriorating.**

**(b) Street Address: 1314 N. Lorraine**

**(c) Owners:  
Juanita Peters (deceased)  
1314 N. Lorraine  
Wichita, KS 67214**

**(d) Resident Agent: None**

**(e) Occupant: None**

**(f) Lienholders of Record:  
Don Brace, County Clerk  
Sedgwick County Courthouse  
525 N. Main  
Wichita, KS 67203**

**Chris McElgunn, Attorney  
301 N. Main #1600  
Wichita, KS 67202**

**(g) Mortgage Holder(s): None**

**(h) Interested Parties: None**

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 1314 North Lorraine**

**LEGAL DESCRIPTION: The South 12 1/2 feet of Lot 36 and all of Lot 38, on Lorraine Avenue, in Fairmount Park Addition to Wichita, Sedgwick County, Kansas**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 35x38 feet in size. Vacant for an undetermined amount of time, this structure has shifting and cracking concrete block basement walls; rotted and missing asbestos siding; rotted wood trim; and the 10x16 foot accessory is deteriorating.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

OCA: 230200

\_\_\_\_\_  
**PUBLISHED IN THE WICHITA EAGLE ON**  
**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: THE SOUTH 12 1/2 FEET OF LOT 36 AND ALL OF LOT 38, ON LORRAINE AVENUE, IN FAIRMOUNT PARK ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS KNOWN AS **1314 N. LORRAINE** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at The South 12 1/2 feet of Lot 36 and all of Lot 38, on Lorraine Avenue, in Fairmount Park Addition to Wichita, Sedgwick County, Kansas, known as: 1314 N. Lorraine, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 35x38 feet in size. Vacant for an undetermined amount of time, this structure has shifting and cracking concrete block basement walls; rotted and missing asbestos siding; rotted wood trim; and the 10x16 foot accessory is deteriorating.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **435 North Piatt** and legally described as: Lot 15, on Piatt Avenue, Butler and Fisher's Second Addition to the City of Wichita, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure: A one and one half story frame dwelling about 42x36 fee in size. Vacant for at least 1 year, this structure has a shifting and cracking concrete block foundation; rotted and missing vinyl and woodlap siding; badly worn composition roof, with missing shingles; deteriorating front porch; and the wood trim and framing members are rotted.**

**(b) Street Address: 435 North Piatt**

**(d) Owners:**  
**Barry E. Sumpter**  
**PO Box 48794**  
**Wichita, KS 67201**

**Maria Moreno**  
**1748 S. Wichita**  
**Wichita, KS 67213**

**(d) Resident Agent: None**

**(e) Occupant: None**

**(f) Lienholders of Record:**  
**Don Brace, County Clerk**  
**Sedgwick County Courthouse**  
**525 N. Main**  
**Wichita, KS 67203**

**Chris McElgunn, Attorney**  
**301 N. Main #1600**  
**Wichita, KS 67202**

**(i) Mortgage Holder(s):**  
**U.M. Acquisitions, LLC**  
**6701 Carmel Road Suite #110**  
**Charlotte, NC 28226-0000**

**(j) Interested Parties:**  
**Smith and Company Inc.**  
**PO Box 758**  
**Andover, KS 67002**

**State of Kansas SRS  
230 E. William  
Wichita, KS 67201**

**Bank One, National Association  
f/k/a The First National Bank of Chicago  
Unknown Address**

**Ronald A. Lyon  
901 N. Broadway  
Wichita, KS 67214**

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 435 North Piatt**

**LEGAL DESCRIPTION: Lot 15, on Piatt Avenue, Butler and Fisher's Second Addition to the City of Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one and one half story frame dwelling about 42x36 feet in size. Vacant for at least 1 year, this structure has a shifting and cracking concrete block foundation; rotted and missing vinyl and wood lap siding; badly worn composition roof, with missing shingles; deteriorating front porch; and the wood trim and framing members are rotted.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

OCA: 230200

\_\_\_\_\_**PUBLISHED IN THE WICHITA EAGLE ON**\_\_\_\_\_  
**RESOLUTION NO.** \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOT 15, ON PIATT AVENUE, BUTLER AND FISHER'S SECOND ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS. KNOWN AS **435 NORTH PIATT** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita. That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lot 15, on Piatt Avenue, Butler and Fisher's Second Addition to the City of Wichita, Sedgwick County, Kansas., known as: 435 North Piatt, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one and one half story frame dwelling about 42x36 fee in size. Vacant for at least 1 year, this structure has a shifting and cracking concrete block foundation; rotted and missing vinyl and woodlap siding; badly worn composition roof, with missing shingles; deteriorating front porch; and the wood trim and framing members are rotted.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **1006 N. Grove** and legally described as: Lots 13 and 15, Block 1, Esterbrook Park Addition to Wichita, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure: A one story frame dwelling about 28x28 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; bent and torn metal siding; sagging and badly worn composition roof; rotted and missing wood trim; and the 12x22 foot accessory structure is deteriorating.**

**(b) Street Address: 1006 N. Grove**

**(e) Owners:  
Verl McGaughy  
5807 W. Crocus Drive  
Glendale, AZ 85306-4210**

**(d) Resident Agent: None**

**(e) Occupant: None**

**(f) Lienholders of Record: None**

**(k) Mortgage Holder(s): None**

**(l) Interested Parties: None**

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 1006 N. Grove**

**LEGAL DESCRIPTION: Lots 13 and 15, Block 1, Esterbrook Park Addition to Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 28x28 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; bent and torn metal siding; sagging and badly worn composition roof; rotted and missing wood trim; and the 12x22 foot accessory structure is deteriorating.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.
- D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

OCA: 230200

\_\_\_\_\_**PUBLISHED IN THE WICHITA EAGLE ON**\_\_\_\_\_  
**RESOLUTION NO.** \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 13 AND 15, BLOCK 1, ESTERBROOK PARK ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS. KNOWN AS **1006 N. GROVE** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita. That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 13 and 15, Block 1, Esterbrook Park Addition to Wichita, Sedgwick County, Kansas., known as: 1006 N. Grove, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 28x28 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; bent and torn siding; sagging and badly worn composition roof; rotted and missing wood trim; and the 12x22 foot accessory structure is deteriorating.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **1338 N. Green** and legally described as: Lots 18 and 20, on Green Street in Fairmount Park Addition to Wichita, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure:** A one story frame dwelling about 28x27 feet in size. Vacant since 2005, this structure has a shifting and cracking concrete block foundation; rotted and missing lap siding; sagging and badly worn composition roof, with holes; deteriorating front porch; rotted wood trim; and the 12x20 foot accessory structure is dilapidated.

**(b) Street Address:** 1338 N. Green

**(f) Owners:**  
Angela Ortega  
5208 E. Harry  
Wichita, KS 67218

**(d) Resident Agent:** None

**(e) Occupant:** None

**(f) Lienholders of Record:**  
Don Brace, County Clerk  
Sedgwick County Courthouse  
525 N. Main  
Wichita, KS 67203

Chris McElgunn, Attorney  
301 N. Main #1600  
Wichita, KS 67202

**(m) Mortgage Holder(s):** None

**(n) Interested Parties:** None

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 1338 N. Green**

**LEGAL DESCRIPTION: Lots 18 and 20, on Green Street in Fairmount Park Addition to Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 28x27 feet in size. Vacant since 2005, this structure has a shifting and cracking concrete block foundation; rotted and missing lap siding; sagging and badly worn composition roof, with holes; deteriorating front porch; rotted wood trim; and the 12x20 foot accessory structure is dilapidated.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

OCA: 230200

\_\_\_\_\_**PUBLISHED IN THE WICHITA EAGLE ON**\_\_\_\_\_  
**RESOLUTION NO.** \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOTS 18 AND 20, ON GREEN STREET IN FAIRMOUNT PARK ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS. KNOWN AS **1338 N. GREEN** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lots 18 and 20, on Green Street in Fairmount Park Addition to Wichita, Sedgwick County, Kansas., known as: 1338 N. Green, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 28x27 feet in size. Vacant since 2005, this structure has a shifting and cracking concrete block foundation; rotted and missing lap siding; sagging and badly worn composition roof, with holes; deteriorating front porch; rotted wood trim; and the 12x20 foot accessory structure is dilapidated.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **916 N. Harding** and legally described as: Lot 9, Block 3, East Highland North Addition to Wichita, Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure: A one story frame dwelling about 22x35 feet in size. Vacant for at least 2 1/2 years, this structure has cracking concrete foundation; missing and vinyl siding; badly worn composition roof; deteriorating rear porch; and the wood trim is rotted and missing.**

**(b) Street Address: 916 N. Harding**

**(g) Owners:  
Select Portfolio Servicing Inc.  
PO Box 65759  
Salt Lake City, UT 84165-0769**

**(d) Resident Agent: None**

**(e) Occupant: None**

**(f) Lienholders of Record:  
Don Brace, County Clerk  
Sedgwick County Courthouse  
525 N.Main  
Wichita, KS 67203**

**Chris McElgunn, Attorney  
301 N. Main #1600  
Wichita, KS 67202**

**(o) Mortgage Holder(s):  
EquiCredit Corporation of Mo.  
1125 S. Rock Rd. Suite #15  
Wichita, KS 67207**

**(p) Interested Parties: None**

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 916 N. Harding**

**LEGAL DESCRIPTION: Lot 9, Block 3, East Highland North Addition to Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 22x35 feet in size. Vacant for at least 2 1/2 years, this structure has a cracking concrete foundation; missing and vinyl siding; badly worn composition roof; deteriorating rear porch; and the wood trim is rotted and missing.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

\_\_\_\_\_  
Superintendent of Central Inspection  
Enforcing Officer

\_\_\_\_\_  
Date

OCA: 230200

\_\_\_\_\_  
**PUBLISHED IN THE WICHITA EAGLE ON**  
**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOT 9, BLOCK 3, EAST HIGHLAND NORTH ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS. KNOWN AS **916 N. HARDING** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lot 9, Block 3, East Highland North Addition to Wichita, Sedgwick County, Kansas., known as: 916 N. Harding, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 22x35 feet in size. Vacant for at least 2 1/2 years, this structure has cracking concrete foundation; missing and vinyl siding; badly worn composition roof; deteriorating rear porch; and the wood trim is rotted and missing.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **14621 E. Sport of Kings** and legally described as: Lot 9, Block 4, Savanna at Castle Rock Ranch 5th Addition to Sedgwick County, Kansas., is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure:** A one story frame dwelling about 58x54 feet in size. Vacant for an unknown amount of time, this structure has shifting concrete basement walls; fire damaged masonite lap siding; fire damaged roof, with holes; deteriorating rear porch; and the wood trim, fascia, and soffits are fire damaged.

**(b) Street Address:** 14621 E. Sport of Kings

**(h) Owners:**  
David R. Rathbone  
103 Belle Terre  
Wichita, KS 67230

Sharon F. Grace  
338 N. Rutgers  
Wichita, KS 67212

**(d) Resident Agent:** None

**(e) Occupant:** None

**(f) Lienholders of Record:** None

**(q) Mortgage Holder(s):**  
Homecomings Financial Network Inc.  
MERS as Nominee of Lender  
14850 Quorum Dr. Suite #500  
Dallas, TX 75254

**(r) Interested Parties:**  
Star Lumber & Supply Inc.  
303 S. Oak  
Wichita, KS 67213

Curtis E. Covey & Joe Cassell  
6548 S. Bedford Circle  
Derby, KS 67037

Savanna East Homeowners Assoc.  
Unpaid Assessments  
1540 Freedom Rd  
Wichita, KS 67230

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 2**

**ADDRESS: 14621 E. Sport of Kings**

**LEGAL DESCRIPTION: Lot 9, Block 4, Savanna at Castle Rock Ranch 5th Addition to Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 58x54 feet in size. Vacant for an unknown amount of time, this structure has shifting concrete basement walls; fire damaged masonite lap siding; fire damaged roof, with holes; deteriorating rear porch; and the wood trim, fascia, and soffits are fire damaged.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

OCA: 230200

\_\_\_\_\_PUBLISHED IN THE WICHITA EAGLE ON\_\_\_\_\_  
RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOT 9, BLOCK 4, SAVANNA AT CASTLE ROCK RANCH 5TH ADDITION TO SEDGWICK COUNTY, KANSAS. KNOWN AS **14621 E. SPORT OF KINGS** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the **8th day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lot 9, Block 4, Savanna at Castle Rock Ranch 5th Addition to Sedgwick County, Kansas., known as: 14621 E. Sport of Kings, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 58x54 feet in size. Vacant for an unknown amount of time, this structure has shifting concrete basement walls; fire damaged masonite lap siding; fire damaged roof, with holes; deteriorating rear porch; and the wood trim, fascia, and soffits are fire damaged..

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20th day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

**GROUP # 5**

**NOTICE OF DEMOLITION ACTION**

This is to certify that the property located at **4338 E. Wilma** and legally described as: Lot 18, Block F, in Hilltop Manor, a replat of parts of Hilltop Manor and Hilltop Manor Second Addition, being a Subdivision of Section 26, Township 27 South, Range 1 East of the Sixth Principal Meridian, in Sedgwick County, Kansas; except that part described as beginning at a point at the Southeast corner of Lot 18, Block F, thence north 100 feet, thence northwest along the Northerly line of Lot 18, 45.4 feet, thence southerly 85.24 feet to a point on the Southerly line of Lot 18, said point being 72.15 feet Northwest of the Southeast corner of Lot 18, thence southeast 72.15 feet to the place of beginning, is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **July 8, 2008** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

\_\_\_\_\_  
Kurt A. Schroeder, Superintendent, Office of Central Inspection  
City of Wichita

**STATE OF KANSAS )**  
**) ss:**  
**SEDGWICK COUNTY)**

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kurt A. Schroeder, Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



**TO:** The Mayor and City Council  
Wichita, Kansas

**RE:** Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

**(a) Description of Structure: A one story frame dwelling about 57x24 feet in size. Vacant for at least 16 months, this structure has a shifting and sinking block foundation; broken, missing and fire damaged asbestos siding; sagging composition roof, with holes and missing shingles; and the wood trim is rotted.**

**(b) Street Address: 4338 E. Wilma**

**(i) Owners:  
Appliance Doctor, Inc.  
1309 N. Mosley  
Wichita, KS 67214**

**(d) Resident Agent: None**

**(e) Occupant: None**

**(f) Lienholders of Record:  
Don Brace, County Clerk  
Sedgwick County Courthouse  
525 N.Main  
Wichita, KS 67203**

**Chris McElgunn, Attorney  
301 N. Main #1600  
Wichita, KS 67202**

**(s) Mortgage Holder(s):  
City of Wichita  
Neighborhood Improvement Services  
332 N. Riverview  
Wichita, KS 67202**

**(t) Interested Parties: None**

**DATE: May 7, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 3**

**ADDRESS: 4338 E. Wilma**

**LEGAL DESCRIPTION: Lot 18, Block F, in Hilltop Manor, a replat of parts of Hilltop Manor and Hilltop Manor Second Addition, being a Subdivision of Section 26, Township 27 South, Range 1 East of the Sixth Principal Meridian, in Sedgwick County, Kansas; except that part described as beginning at a point at the Southeast corner of Lot 18, Block F, thence north 100 feet, thence northwest along the Northerly line of Lot 18, 45.4 feet, thence southerly 85.24 feet to a point on the Southerly line of Lot 18, said point being 72.15 feet Northwest of the Southeast corner of Lot 18, thence southeast 72.15 feet to the place of beginning.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 57x24 feet in size. Vacant for at least 16 months, this structure has a shifting and sinking block foundation; broken, missing and fire damaged asbestos siding; sagging composition roof, with holes and missing shingles; and the wood trim is rotted.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

\_\_\_\_\_  
Superintendent of Central Inspection  
Enforcing Officer

\_\_\_\_\_  
Date

OCA: 230200

\_\_\_\_\_  
**PUBLISHED IN THE WICHITA EAGLE ON**  
**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: LOT 18, BLOCK F, IN HILLTOP MANOR, A REPLAT OF PARTS OF HILLTOP MANOR AND HILLTOP MANOR SECOND ADDITION, BEING A SUBDIVISION OF SECTION 26, TOWNSHIP 27 SOUTH, RANGE 1 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN SEDGWICK COUNTY, KANSAS; EXCEPT THAT PART DESCR KNOWN AS **4338 E. WILMA** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **20th day of May 2008**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.

That a hearing will be held on the **8<sup>th</sup> day of July 2008**, before the governing body of the city at 9:30 A.M., or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at Lot 18, Block F, in Hilltop Manor, a replat of parts of Hilltop Manor and Hilltop Manor Second Addition, being a Subdivision of Section 26, Township 27 South, Range 1 East of the Sixth Principal Meridian, in Sedgwick County, Kansas; except that part described as beginning at a point at the Southeast corner of Lot 18, Block F, thence north 100 feet, thence northwest along the Northerly line of Lot 18, 45.4 feet, thence southerly 85.24 feet to a point on the Southerly line of Lot 18, said point being 72.15 feet Northwest of the Southeast corner of Lot 18, thence southeast 72.15 feet to the place of beginning, known as: 4338 E. Wilma, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one story frame dwelling about 57x24 feet in size. Vacant for at least 16 months, this structure has a shifting and sinking block foundation; broken, missing and fire damaged asbestos siding; sagging composition roof, with holes and missing shingles; and the wood trim is rotted.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **20<sup>th</sup> day of May 2008**.

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

ATTEST: \_\_\_\_\_  
Karen Sublett, City Clerk

City of Wichita  
City Council Meeting

May 20, 2008

**TO:** Mayor and City Council Members  
**SUBJECT:** Repair or Removal of Dangerous & Unsafe Structures  
(District I, II and III)  
**INITIATED BY:** Office of Central Inspection  
**AGENDA:** Consent

-----  
**Recommendations:** Adopt the attached resolutions to schedule the required City Council public hearings to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes.

**Background:** On May 5, 2008, the Board of Code Standards and Appeals held a hearing on seven (7) residential properties listed below. The buildings on all seven (7) properties are considered dangerous and unsafe structures per State statutes and local ordinances, and are being presented in order to schedule a condemnation hearing before the City Council. The Board of Code Standards and Appeals has recommended that the City Council proceed with condemnation, demolition and removal of the dangerous buildings on all seven (7) properties.

**Analysis:** Minimum Housing Code violation notices have been issued on these structures; however, compliance has not been achieved. Pre-condemnation and formal condemnation letters have also been issued, and the time granted for repair or removal has expired. No actions have been taken by the property owners and/or other interested parties to repair or remove these dangerous buildings.

<u>Property Address</u>	<u>Council District</u>
a. 1314 North Lorraine	I
b. 435 North Piatt	I
c. 1006 North Grove	I
d. 1338 North Green	I
e. 916 North Harding	I
f. 14621 East Sport of Kings	II
g. 4338 East Wilma	III

**Financial Considerations:** Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

**Goal Impact:** On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

**Legal Considerations:** These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita shall cause them to be deemed as dangerous and unsafe buildings for condemnation consideration, as required by State Statutes.

**Recommendations/Actions:** Adopt the attached resolutions to schedule public hearings before the City Council on July 8, 2008 at 9:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

**Attachments:** Letters to Council, Summaries, and Resolutions.



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DEPARTMENT OF LAW  
INTEROFFICE MEMORANDUM

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**TO:** Karen Sublett, City Clerk  
**FROM:** Gary E. Rebenstorf, Director of Law  
**SUBJECT:** Report on Claims for April, 2008  
**DATE:** May 1, 2008

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The following claims were approved by the Law Department during the month of April, 2008:

Westar Energy	\$1,015.66
Westar Energy	\$3,706.29
Westar Energy	\$8,026.41
Marilyn Vasquez	\$283.29
Benjamin George	\$1,228.69
Troy Palmer	\$468.82
Westar Energy	\$1,484.67
Angela Green	\$625.39
Nichollette Engels	\$291.40

\*\*Settled for lesser amount than claimed

cc: Ed Flentje, Interim City Manager  
Kelly Carpenter, Director of Finance

**PUTNAM FIDUCIARY TRUST COMPANY**

**INVESTMENT FUNDS FOR  
PENSION AND PROFIT SHARING TRUSTS**

**PARTICIPATION AGREEMENT**

PUTNAM FIDUCIARY TRUST COMPANY  
One Post Office Square  
Boston, MA 02109

**PUTNAM FIDUCIARY TRUST COMPANY  
INVESTMENT FUNDS FOR  
PENSION AND PROFIT SHARING TRUSTS**

**PARTICIPATION AGREEMENT**

This PARTICIPATION AGREEMENT is made by and between Putnam Fiduciary Trust Company (“PFTC”), as trustee (in such capacity, the “Trustee”) of the Putnam Fiduciary Trust Company Investment Funds for Pension and Profit Sharing Trusts (the “Group Trust”), and the fiduciary executing this Participation Agreement (“Fiduciary”) on behalf of the plan listed on the Account Information form attached hereto (the “Prospective Trust”).

**RECITALS**

A. PFTC maintains the Group Trust (including each separate collective investment fund established as a “Fund”) under the Declaration of Trust, as of September 18, 2007, including each Investment Characteristics and all other attachments thereto, as amended and in effect from time to time (the “Declaration of Trust”), as a medium for the collective investment of tax-qualified retirement trusts and certain eligible governmental plans (defined as “Qualified Trusts” in the Declaration of Trust).

B. The employer listed on the Account Information form attached hereto (together with any of its affiliates that participate in the Plan, the “Employer”) maintains the Prospective Trust, which forms part of one or more deferred compensation plans (each such plan is hereinafter referred to as the “Plan” and all such plans are hereinafter referred to as the “Plans”), for the benefit of the eligible employees of the Employer and their beneficiaries.

C. Under the Declaration of Trust, the Trustee has established certain Funds identified on the Account Information form attached hereto and may in the future establish additional investment funds in accordance with the terms and conditions set forth in the Declaration of Trust.

D. Fiduciary has authority to direct investments or select or designate investment options for the Prospective Trust, and desires that each Fund specified on Schedule A attached hereto and such additional Funds as may hereafter be added to this Participation Agreement by written agreement (which may be effected through electronic means) of the Fiduciary and the Trustee (the “Designated Funds” and each the “Designated Fund”) be made available as investments or investment option(s) of each Plan in accordance with this Agreement.

E. PFTC desires to accept the Prospective Trust (including each Plan forming a part thereof) as a “Participating Trust” (as defined in the Declaration of Trust) of each Designated Fund, subject to the terms and conditions of this Participation Agreement. For clarity, the term “Prospective Trust” is used herein with respect to the period of time before acceptance, and “Participating Trust” refers to the same trust after acceptance.

## **AGREEMENT**

In consideration of the foregoing and the promises set forth below, the parties agree as follows:

### **1. Appointment and Acceptance**

Fiduciary hereby appoints PFTC as managing agent of the Prospective Trust with respect to such assets of the Prospective Trust that may from time to time be invested in any Designated Fund. Notwithstanding the foregoing, PFTC may appoint agents and independent contractors, which may be affiliates of PFTC, to assist PFTC in the performance of its duties hereunder and delegate all or part of its duties and obligations to any such agents or independent contractors, provided that PFTC shall not be relieved of its liabilities with respect to any such duties or obligations so delegated. PFTC hereby accepts such appointment as managing agent and agrees that it will be a fiduciary of the Plan with respect to such assets.

### **2. Acceptance of Participating Trust**

PFTC hereby accepts the Prospective Trust as a Participating Trust of each Designated Fund (hereinafter, the "Participating Trust") as of the date specified on the signature page below, which is a Valuation Date of such applicable Designated Fund. Fiduciary from time to time shall direct the transfer of Participating Trust assets to PFTC for investment in the Designated Fund(s) in accordance with any applicable procedures for additions to such applicable Designated Fund as may be adopted from time to time by PFTC (including any other procedures that may be set forth in separate agreements, as well as procedures established by the Trustee in its sole discretion and provided to Fiduciary from time to time), and Fiduciary agrees that each representation and warranty of Fiduciary set forth in this Participation Agreement shall be deemed to be remade and repeated as of the date of any such transfer. The Participating Trust's participation in each Designated Fund will at all times be subject to the terms of the Declaration of Trust, which is hereby adopted as a part of the Participating Trust and this Participation Agreement. In the event of any inconsistency between this Participation Agreement and the Declaration of Trust with respect to the Participating Trust's investment in any Designated Fund, the Declaration of Trust shall control.

### **3. Warranties, Representations, and Covenants of Fiduciary**

(a) Fiduciary warrants and represents to, and covenants with, PFTC and the Fund as follows:

(i) the Prospective Trust constitutes or is part of one or more Plans, each Plan is a deferred compensation plan of the Employer, and no portion of any Plan or the Prospective Trust includes assets of a "deemed individual retirement account," or "deemed IRA," described in Section 408(q) of the Code;

(ii) the Prospective Trust either (as specified in the Account Information form attached hereto):

(A) is a qualified trust, exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the “Code”), by reason of qualifying under Section 401(a) of the Code; or

(B) is an eligible governmental plan trust or custodial account under Section 457(b) of the Code (a “Governmental Plan”) that is exempt from taxation under Section 457(g) of the Code; or

(C) is a common, collective or commingled trust fund which consists solely of assets of plans described in (A) or (B) above, and is exempt from Federal income taxation under Section 501(a) of the Code by reason of qualifying as a “group trust” under Revenue Ruling 81-100 (1981-1 C.B. 326) (as amended and supplemented from time to time, and any successor ruling thereto) (“Revenue Ruling 81-100”).

(iii) if the Prospective Trust covers one or more self-employed individuals within the meaning of Section 401(c)(1) of the Code (a “Keogh Plan”), the Prospective Trust satisfies the applicable requirements of the Securities Act of 1933, as amended from time to time, and Rule 180 of the Securities and Exchange Commission thereunder, or any successor ruling, regulation, or similar pronouncement, regarding participation by such trust in a collective investment trust;

(iv) each Plan forming part of the Prospective Trust is established, maintained and administered under one or more documents (or, in the case of a Governmental Plan, under one or more documents or under statutes or regulations) that authorize part or all of the assets of the Prospective Trust to be transferred to, and commingled for investment purposes in, a group trust that meets the requirements of Revenue Ruling 81-100;

(v) (A) the Declaration of Trust (including each Designated Fund) is adopted as part of the Prospective Trust and each Plan; and

(B) if and to the extent that assets of any Designated Fund are invested in interests in any collective investment trust (other than the Group Trust and the Funds) that is exempt from tax under the Code or applicable Internal Revenue Service rulings and regulations under Revenue Ruling 81-100 and Section 401(a)(24) of the Code (each an “Other Collective Trust”), each such Other Collective Trust (and the instruments pursuant to which such Other Collective Trust is established) is also adopted as part of the Prospective Trust and each Plan;

(vi) the Participating Trust signatory acting as the Fiduciary pursuant to Section 402(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) (to the extent applicable to the Prospective Trust) either (A) is a “fiduciary” (within the meaning of Section 402(a)(2) of ERISA), or a duly authorized agent thereof acting at the direction thereof, with authority under the governing documents of the Prospective Trust to appoint the Trustee as contemplated hereby, (B) in the case of a

Governmental Plan, has the authority under the governing documents of the Prospective Trust or under statutes or regulations to appoint the Trustee as contemplated hereby, or a duly authorized agent thereof, or (C) has been properly directed to sign this Participation Agreement by the person referred to in clause (A) or (B) of this paragraph (vi);

(vii) the execution and delivery of this Participation Agreement by the Fiduciary has been duly authorized, and this Participation Agreement constitutes the valid and binding agreement of the Prospective Trust, enforceable against the Prospective Trust in accordance with its terms and any approval, authorization or license from any foreign, federal, state or local regulatory authority or agency required on the part of the Prospective Trust has been obtained and any necessary filing with any of the foregoing has been duly made;

(viii) the obligations of the Fiduciary and the Prospective Trust hereunder do not conflict with any applicable provision of its organizational or governing documents or any agreement to which it is subject and do not contravene any applicable law or regulation;

(ix) if the Plan or Plans forming the Prospective Trust are not “eligible individual account plans” within the meaning of Section 407(d)(3) of ERISA, not more than 10 percent of the assets of the Prospective Trust (excluding for all purposes of such calculation the assets of the Prospective Trust that are invested in the Designated Funds) are or will be invested in “employer securities,” as such term is defined in Section 407 of ERISA;

(x) to the best of the Fiduciary’s knowledge, information and belief, neither PFTC nor any advisor or consultant retained by PFTC, or any agent of, or independent contractor for, PFTC retained to solicit participants in the Funds or provide recordkeeping or omnibus account services (each, a “Solicitor”), has acted (or will act) as a fiduciary (as defined in Section 3(21)(A) of ERISA, whether or not ERISA is applicable to the Prospective Trust), and no Solicitor has paid any consideration to any Fiduciary or any of its affiliates, with respect to the decision to invest any assets of the Prospective Trust in any Designated Fund, to select any Designated Fund as an investment option available under the Prospective Trust or to continue any such investment or selection in the future; and

(xi) to the best of the Fiduciary’s knowledge, information and belief, all directions and instructions given by the Fiduciary, or by the Prospective Trust’s participants and beneficiaries or any other person, if applicable, to the Trustee, or any agent of, or independent contractor for, the Trustee, shall comply with the terms of the Prospective Trust, this Agreement, any other agreements applicable to the Participating Trust, ERISA and all other applicable law.

(b) Fiduciary hereby acknowledges the following:

(i) it is an “Investing Fiduciary” as defined in the Declaration of Trust;

(ii) it has considered appropriate factors in connection with participation in each Designated Fund (including, without limitation, the overall diversification of the investment portfolio and the prudence of participating in the Designated Funds) and has

determined that, in view of such considerations, the participation by the Prospective Trust in each Designated Fund is consistent with the fiduciary responsibilities of the Fiduciary under applicable Kansas law; and

(iii) except to the extent expressly agreed to in writing by PFTC, the Trustee has not acted (and will not act) as a fiduciary (as defined in Section 3(21) of ERISA, to the extent ERISA is applicable to the Participating Trust) with respect to the decision to participate in any Designated Fund, to allocate assets of the Prospective Trust to any Designated Fund, or to continue any such investment in the future. Fiduciary hereby further acknowledges to the Trustee that the Prospective Trust may hold assets in other investments that are not part of any Designated Fund and agrees that the Trustee has no responsibility for the overall diversification of the investment portfolio of the Prospective Trust (or any Plan therein) or for the prudence of participating in the Designated Fund(s) in relation to the total portfolio of the Prospective Trust.

(c) Fiduciary acknowledges the following: it has received a copy of the Declaration of Trust (including the Investment Characteristics for each Fund); it has had adequate opportunity to review its terms with its legal counsel (having been granted access to all information regarding the Funds that it has requested); it has sufficient knowledge, sophistication and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Funds; and it has not relied upon the Group Trust, the Funds, the Trustee, PFTC (except to the extent expressly agreed to in writing by PFTC), or any affiliate, agent or independent contractor of, or investment adviser to, the Trustee or PFTC in connection with the Funds or any employees, officers, principals or agents thereof or of any of the foregoing for any investment, tax, ERISA, or other legal or financial advice in connection with the acquisition of Units of the Designated Fund(s).

(d) Fiduciary understands (and, to the extent the Prospective Trust is participant directed, has communicated or will communicate to all participants in the Prospective Trust) that the Trustee will vote (or may retain an affiliate to vote) proxies issued by companies whose securities are owned by the Funds and that the Trustee's policy is that all proxies be voted and that all voting be recorded in accordance with its (or its affiliate's, as the case may be) proxy voting policy, although the Trustee may solicit recommendations from advisors or sub-advisors which it retains with respect to a Designated Fund. The Trustee agrees to provide Fiduciary with a copy of the Trustee's (or its affiliate's, as the case may be) proxy voting policy upon request.

(e) Fiduciary understands (and, to the extent the Prospective Trust is participant-directed, has communicated or will communicate to all participants in the Prospective Trust prior to their direction to invest in Units of the Designated Fund(s)) the following: (i) the Units of the Designated Fund(s) have not been registered under the Securities Act of 1933, as amended (the "1933 Act"), or the applicable securities laws of any states or other jurisdictions, and that the Trustee has cautioned that participants are not entitled to the protections of the 1933 Act; (ii) neither the Group Trust nor any Fund is registered under the Investment Company Act of 1940, as amended (the "1940 Act"), or other applicable law, and that the Trustee has cautioned that participants are not entitled to the protections of the 1940 Act; (iii) the Units of the Designated Fund(s) are not insured by the FDIC or any other governmental agency, are not covered by any other type of deposit insurance,

and are not deposits of, or guaranteed by, PFTC or any other bank; and (iv) the Designated Fund(s) may, in addition to investing in securities and money market instruments, also invest in futures contracts, security futures contracts or products, derivatives, and other similar investments, and the Trustee of the Designated Fund(s) has claimed an exclusion from the definition of the term “commodity pool operator” under the Commodity Exchange Act, as amended (the “Commodity Act”), pursuant to Rule 4.5 of the Commodity Act, and therefore the Trustee is not subject to registration or regulation as a “commodity pool operator” under the Commodity Act. No assurance has or can be given that the Designated Funds will achieve their investment objectives. Investments in the designated Funds are subject to various risks and the value of investments in the Designated Funds will fluctuate in value.

(f) To the extent the Prospective Trust is participant-directed, Fiduciary has communicated or will communicate all material information that it receives from the Trustee regarding each Designated Fund to all participants in the Prospective Trust having a beneficial interest in such Designated Fund, and the Trustee has no responsibility for any communication to participants in the Prospective Trust.

(g) To the extent applicable, Fiduciary agrees promptly to provide to the Trustee, in connection with the execution of this Agreement and thereafter annually and upon reasonable request, such information as the Trustee determines to be necessary or appropriate with respect to actual and average participant account balances of the Prospective Trust so that the Trustee may determine and verify the satisfaction of the criteria designated from time to time for eligibility to participate in a particular Class.

(h) Fiduciary, on behalf of the Prospective Trust, has completed and executed the Account Information Form in the form attached hereto as Appendix I (which is incorporated herein) and will execute, deliver, acknowledge and file any and all further documents and provide any and all further information (including, without limitation, copies of the organizational instruments of the Prospective Trust, the most recent determination letter issued by the Internal Revenue Service with respect to the Plan or Plans, current financial information and a list of employer securities with respect to each Plan) which the Trustee may deem necessary or appropriate in connection with the Prospective Trust’s investment in any Designated Fund.

(i) Fiduciary agrees promptly to notify the Trustee in the event that any of the representations set forth above or any information provided pursuant to the provisions hereof ceases to be accurate during the term of this Participation Agreement. Until such notice is actually received by the Trustee (or until the Trustee has actual knowledge thereof), the Trustee may rely on the representations contained in, and all other information provided pursuant to or as contemplated by, this Agreement in connection with all matters related to the Designated Funds and the Group Trust (including without limitation in connection with Class eligibility and signature authorizations).

(j) Fiduciary acknowledges that the Funds are intended to be long-term investment vehicles and are not designed to provide investors with a means of speculating on short-term market movements. A pattern of frequent acquisitions and dispositions of Units can be disruptive to efficient management of the Funds. Accordingly, if the Trustee determines in its sole

discretion that the Participating Trust (or any participants in the Participating Trust) is or may be following a market-timing strategy or is otherwise engaging in excessive trading, the Trustee reserves the right to reject or restrict acquisition or disposition requests from such Participating Trust (or participants in such Participating Trust).

(k) Fiduciary acknowledges and agrees that, from time to time, each Fund may invest in one or more open-end investment companies registered under the 1940 Act that are affiliated with PFTC in order to obtain exposure to certain markets without investing in such markets directly, in order to equitize cash in the Fund, or for other legitimate purposes, and any advisory fees of such affiliated investment companies, which may exceed the fees provided for in the Fund's Fee Schedule, (a) shall be offset from the fees described in the Fund's Fee Schedule within the time period permitted under Prohibited Transaction Class Exemption 77-4, (b) shall otherwise satisfy the conditions of any applicable individual prohibited transaction exemption obtained by PFTC, or (c) shall otherwise be made so as not to constitute a non-exempt prohibited transaction under ERISA. PFTC acknowledges and agrees that the consent provided in this section shall be contingent upon providing a prospectus of any such affiliated investment company to the Fiduciary in advance of any investment in such affiliated investment company, which will contain a full description of the fees and expenses of such affiliated investment company and such consent will be effective only after such delivery; and provided further that such investment(s) are appropriate in light of the Fund's investment mandate and guidelines.

#### **4. Compensation – Classes**

(a) PFTC is entitled to reasonable compensation for its services provided hereunder and pursuant to the Declaration of Trust with respect to each Designated Fund in accordance with the Fee Schedule set forth in, or attached to, the Investment Characteristics for such Designated Fund, which has been provided to Fiduciary. If the Prospective Trust is participant-directed, Fiduciary acknowledges and agrees that (i) it has communicated and (ii) upon any change in compensation applicable to the Participating Trust will communicate, to all participants in the Prospective Trust, the compensation charged to the Prospective Trust and each participant therein and that such compensation may vary, and that the compensation paid directly and/or indirectly by the Participating Trust and each participant therein may change, as described in Schedule A.

(b) Notwithstanding the foregoing, with respect to a Class of Units of each Fund, each Unit shall be of equal value to every other Unit of the same Class.

(c) Each Unit of a Class shall represent an undivided proportionate interest in all the assets of the Fund.

(d) As of any Valuation Date, the Trustee, in its sole discretion, may make a uniform change in the Units of any Class of any Fund either by dividing such Units into a greater number of Units of lesser value, or combining such Units to produce a lesser number of Units of greater value, provided that the proportionate interest of each Qualified Trust in the Fund shall not thereby be changed.

## **5. Directions from Fiduciary – Indemnification**

Fiduciary will designate (or has previously designated) in a separate signature authorization form acceptable to the Trustee the individual(s) (who may be employees of Fiduciary or of other agents or service providers to the Participating Trust) identified to communicate directions, instructions, or other notices required or permitted under this Participation Agreement to PFTC on its behalf. Fiduciary may change such designated individuals from time to time upon ten days' prior written notice to PFTC. PFTC shall be protected fully in relying on and proceeding in accordance with any such direction or notice. To the extent permitted by the Kansas Tort Claims Act, Employer hereby agrees to indemnify, but solely from assets of the Participating Trust, each Designated Fund and PFTC, its Affiliates, and its and their directors, officers, and employees (each, an "indemnified party"), and hold them harmless from all liabilities, losses, claims, demands, damages, costs, and expenses, including reasonable attorneys' fees and expenses, arising from (i) any act taken or omitted by an indemnified party in good faith in accordance with, or any act omitted due to the absence of, directions of any person authorized to give a direction with respect to the matter, (ii) any act taken or omitted by the Fiduciary in breach of the Fiduciary's responsibilities, including, without limitation, any miscommunication or inaccurate statement by the Fiduciary to Participating Trust participants concerning any aspect of the Designated Funds or the Group Trust or the consequences of an investment in the Designated Fund or the Group Trust, or (iii) any breach of the Participation Agreement or the Declaration of Trust by the Fiduciary. The Fiduciary's and the Employer's obligations under this Section 5 shall survive the termination of this Agreement.

## **6. Litigation Expenses**

Trustee's costs and expenses incurred in any litigation relating to the Designated Funds or the Group Trust shall be a reimbursable expense, except costs and expenses incurred in connection with litigation between Participating Trust and Trustee or litigation in which Trustee is found to have breached its duty hereunder or under the Declaration of Trust. To the extent that such reimbursable costs and expenses are not fully reimbursed by the Designated Funds or the Group Trust for any reason, Employer will, to the extent permitted by the Kansas Tort Claims Act, cause Participating Trust to indemnify and hold harmless PFTC. Trustee shall promptly notify Participating Trust of any such litigation. Trustee may decline to start or respond to any legal action unless Participating Trust indemnifies Trustee to its satisfaction for all such reimbursable expenses. Trustee may compromise claims on terms approved by Participating Trust or its authorized representatives, which shall be binding on all parties. This Section 6 shall survive the termination of this Agreement.

## **7. Role of the Trustee**

(a) The Trustee (and any investment adviser, including any affiliate of the Trustee, appointed by the Trustee to assist the Trustee in the fulfillment of its duties under the Declaration of Trust) may sponsor, offer, distribute, manage and/or advise other accounts, investment funds or pooled funds in such a manner that substantially the same or different investment decisions are made for those accounts or pooled funds as are made for the Funds.

(b) The Trustee serves as the sponsor, trustee and manager of the Group Trust and each Fund. The Trustee may employ advisers, consultants, subadvisers or other agents (which may be affiliates of the Trustee) to assist in the administration and management of the Funds. Any such advisers, consultants, subadvisers or agents may be compensated directly by the Trustee or may be compensated from the applicable Fund, as set forth in the Declaration of Trust.

## **8. Miscellaneous**

(a) The Trustee shall furnish, or cause to be furnished, no less frequently than quarterly, to Fiduciary and such persons as Fiduciary may designate from time to time, periodic reports regarding the Funds. Such information may be provided by entities providing other services to the Funds, including agents, subadvisers, custodians or trustees.

(b) This Participation Agreement (i) will terminate upon the complete withdrawal of the Participating Trust from the Group Trust, in which case, notice of withdrawal must be received by the Trustee no later than 5 business days prior to the applicable Valuation Date, (ii) will be binding upon the successors and assigns of the parties hereto, and (iii) together with the Declaration of Trust (including the appendices thereto) is the entire agreement between the parties regarding the subject matter of this Participation Agreement.

(c) The headings used in this Participation Agreement are for convenience and reference only and shall not be deemed to limit or affect the terms or provisions herein.

(d) The interpretation of this Agreement and the rights of the parties hereunder shall be governed by ERISA and other applicable federal law and, to the extent not preempted by the foregoing, the laws of the State of Kansas, provided that the foregoing shall not apply with respect to any agreement or document incorporated and/or referenced in this Agreement, which provides by its terms that it is to be controlled by the law of a state other than Kansas, including without limitation the Declaration of Trust.

(e) This Agreement may be retained, to the extent permitted by applicable law, in such form or forms as PFTC may elect, including without limitation electronically, without the necessity of retaining an original or written copy. This Agreement and its signatures may be proved by original copy or reproduced copy, including without limitation a photocopy, a facsimile transmission, an electronic image or any other electronic reproduction. Further, in accordance with the Declaration of Trust, the Fiduciary agrees that PFTC may, in its sole discretion, give the same effect to a telephonic instruction, voice recording or any instruction received through electronic commerce or other electronic means as it gives to a written instruction, and PFTC's action in doing so shall be protected to the same extent as if such telephonic or electronic instructions were, in fact, a written instruction.

(f) PFTC is authorized to rely on the account information provided in Appendix I until PFTC actually receives written notice from the Executing Fiduciary or other authorized person of changes to the provided information.

EXECUTED as of the date set forth below.

**EMPLOYER**

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Signature of Fiduciary (if different from above)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**PUTNAM FIDUCIARY TRUST COMPANY**

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

10

City of Wichita  
Deferred Compensation Plan

**PUTNAM FIDUCIARY TRUST COMPANY  
INVESTMENT FUNDS FOR  
PENSION AND PROFIT SHARING TRUSTS**

**PARTICIPATION AGREEMENT**

The Plan shall pay a management fee at the annual rate of 0.75% (75 basis points) of the Plan's assets in the Fund, accrued daily and paid quarterly.

The Fiduciary acknowledges that Putnam Fiduciary Trust Company will apply a portion of the above fee equal to 0.25% (25 basis points) to payments to the Plan's financial advisor and a portion of the above fee equal to 0.25% (25 basis points) to payments to the Plan's administrative service provider.

**Appendix I**

**ACCOUNT INFORMATION FORM**

Plan Sponsor: **City of Wichita**

Employer's Tax ID (EIN) #: **48-6000653**

Primary Contact: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

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**Plan Name(s): City of Wichita Deferred Compensation Plan**

Plan Type:      DB          DC          401(k)          GOV          Other \_\_\_

Plan Tax Year-End: \_\_\_\_\_ Plan Trust Tax I.D. #: \_\_\_\_\_ Plan #: \_\_\_\_\_

*(Please provide the Tax I.D. # and Plan # as listed on lines 2a and 1b of the Plan's most recent Form 5500)*

Plan Size (approximate) (\$MM): \_\_\_\_\_

Number of Plan Participants: \_\_\_\_\_

PFTC will send to the address specified above a certificate with respect to the Fund's annual report filing to assist in preparation of the Plan's Form 5500 filing.

Please identify all the investment options currently available under the Plan. Please attach additional pages if necessary:

<b>Fund Name</b>	<b>CUSIP</b>
MetWest Total Return M	MWTRX
American Funds High Income R4	RITEX
Hartford Capital Appreciation Fund Y	HCAYY
American Beacon Large Cap Value Plan A	AAGPX
American Funds Growth Fund of America R4	RGAEX
Artisan Mid Cap Value Fund	ARTQX
T.Rowe Price Mid Cap Growth	RPMGX
Westwood Small Cap Value Inst.	WHGSX
Perimeter Small Cap Growth Inst.	PSCGX
American Funds Capital World Growth & Income R4	RWIEX

DFA International Value R2  
Forward International Equity Inst.  
BGI US Debt Index  
BGI Equity Index  
BGI S&P Mid Cap Index  
BGI Russell 2000 Index  
BGI EAFE Index  
Custom Target Date 2010 Fund  
Custom Target Date 2020 Fund  
Custom Target Date 2030 Fund  
Custom Target Date 2040 Fund  
Custom Target Date 2050 Fund  
Custom Target Date Income Fund  
Cohen & Steers Realty Shares

DFA-IV  
FFIEX

CSRSX

## **AMENDATORY AGREEMENT #ONE**

**City of Wichita**, as Employer ("Employer") and **Wells Fargo Bank, N.A.**, as Trustee ("Trustee") make this Amendatory Agreement to the Section 457(b) Trust Agreement ("Trust").

### WITNESSETH

WHEREAS, it is necessary to make amendment to the Trust in order to permit investment in collective investment funds by the City of Wichita Employees Deferred Compensation Plan ("Plan").

WHEREAS, Section 11 of the Wells Fargo Bank, N.A. Section 457(b) Trust Agreement gives the Employer and the Trustee the authority to mutually agree to amend the Trust so long as said Amendment is agreed to in writing by the Employer and the Trustee.

NOW THEREFORE, in consideration of the above premises, the Employer and Trustee agree to amend the Trust as follows:

1. The first sentence of Section 1.b. shall be amended to read:

“The Trust Fund shall include only those assets that the Trustee accepts and may include group annuity contract(s), promissory notes given in connection with loans to Plan participants and beneficiaries, publicly traded mutual funds, collective investment fund(s), and cash or cash equivalents, as applicable.”

2. New language will be added to Section 4.b. following the first sentence of that section:

“Notwithstanding any other provisions of this Trust, assets of this Trust may be invested in any collective investment fund or funds, including common and group trust funds presently in existence or hereafter established which are maintained by a bank or trust company supervised by a state or federal agency, notwithstanding that the bank or trust company is the Trustee, Investment Manager, or is otherwise a party-in-interest of the Plan. The assets so invested shall be subject to all the provisions of the instruments establishing such funds. Such instruments of group trusts are hereby incorporated and made a part of this Trust as if fully set forth herein. The combining of money and other assets of this Trust with money and other assets of other trusts and accounts in such fund or funds is specifically authorized.

This Amendatory Agreement shall be effective \_\_\_\_\_ . In all other respects, the Trust Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Employer and Trustee have executed this Amendatory Agreement in \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_

Attest: \_\_\_\_\_

By: \_\_\_\_\_

"EMPLOYER"

**Wells Fargo Bank, N.A.**

Accepted: \_\_\_\_\_

Date

By: \_\_\_\_\_

"TRUSTEE"

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council

**SUBJECT:** City of Wichita Employees' Deferred Compensation Plan  
Participation Agreement for the Putnam Stable Value Fund  
Amendment to Section 457(b) Trust Agreement with Wells Fargo Bank, N.A.

**INITIATED BY:** Department of Finance

**AGENDA:** Consent

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**Recommendation:** Approve the Agreements.

**Background:** The City Council approved the hiring of a consultant, Arnerich Massena & Associates, Inc., on November 7, 2006, to assist the Deferred Compensation Board in the preparation of a Request for Proposal (RFP), evaluation of RFP responses, and selection of investment options offered under the Plan.

As the result of the RFP process, the City Council authorized the selection of Great-West to administer the City of Wichita Employees' Deferred Compensation Plan and approved related agreements on April 1, 2008. Great-West has been the provider since 1991. The current contract with Great-West expires on March 31, 2013.

**Analysis:** Section 2.30.040 of the City Code authorizes the Board to approve the investment options available to participants of the Plan. The Putnam Stable Value Fund was selected by the Board, at the recommendation of the consultant, to replace the Great-West Guaranteed annuity products. The Putnam Fund is a Trust which requires that both the City Council, as Employer, and the Deferred Compensation Board, as Trustee, execute the Putnam Participation Agreement. Additionally, an Amendment to the Section 457(b) Trust Agreement with Wells Fargo Bank, N.A. is required to specifically permit this type of investment.

**Financial Considerations:** All costs associated with the administration of the program are borne by the participants of the program.

**Goal Impact:** The City of Wichita, by offering this supplemental retirement savings program, impacts the Internal Perspective goal by increasing employee motivation and satisfaction. Also, the City's practice of going through a periodic Request for Proposal process is done to reduce/avoid costs, which is another indicator of the Internal Perspective goal.

**Legal Considerations:** The Law Department has approved the Agreements as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Agreements and authorize the Mayor to sign.

**Attachments:**

- 1) Putnam Fiduciary Trust Company Participation Agreement
- 2) Amendatory Agreement #One to Section 457(b) Trust Agreement with Wells Fargo Bank, N.A.



PUBLIC WORKS-BUILDINGS DIVISION

April 14, 2008  
**CHANGE ORDER**

To: Bruce Smith Roofing  
817 S. Munnell  
Wichita KS 67203

Project: LaFamilia Multicultural Facility  
Roof Replacement

Change Order No.: One (1)  
Purchase Order No.: 701617  
CHARGE TO OCA No.: 702008

Project No.: 436618  
OCA No.: 702008  
PPN: N/A

Please perform the following extra work at a cost not to exceed **\$10,085.00**

Remove and dispose of two (2) undetected additional roof systems per City building code. Re-deck using CDX plywood and re-level fascia to match new deck level.

CIP Budget Amount: \$9,880.00	Original Contract Amt.: \$9,880.00
Consultant: Bruce Smith Roofing	Current CO Amt.: \$10,085.00
*Total Expenditures & Encumbrances to Date: \$19,965.00	Amt. of Previous CO's: \$0.00
Unencumbered Balance: \$10,085.00	Total of All CO's: \$10,085.00
	% of Orig. Contract / 25% Max.: 109%
*INCLUDES CHANGE ORDER(S)	*Adjusted Contract Amt.: \$19,965.00

Recommended By:

James A. Mayer  
General Maintenance Supervisor  
4-14-08  
Date

Approved:

Ed Martin  
Building Services Manager  
4-15-08  
Date

Agreed/Approved:

Bruce Smith, Principal  
Bruce Smith Roofing  
4-14-08  
Date

Approved:

Chris Carrier, P.E.  
Director of Public Works  
4.15.08  
Date

must be  
Approved  
by  
Council.

Approved:

\_\_\_\_\_  
Carl Brewer  
Mayor  
Date

Approved As To Form:

Gary Rebenstorf  
Director of Law  
4-15-08  
Date

Attest:

\_\_\_\_\_  
Karen Sublett  
City Clerk

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members  
**SUBJECT:** Request for Exception to Charter Ordinance Number 198 (All Districts).  
**INITIATED BY:** Department of Public Works  
**AGENDA:** Consent

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**Recommendation:** Approve the Resolution.

**Background:** As part of the 2006 hail storm damage, LaFamilia Community Center was being completely re-roofed as a part of the City's insurance claim with Allianz for full replacement value.

**Analysis:** During the visual inspection of the community center, samples of the roof material were thoroughly examined by the insurance carrier's representatives and a preliminary replacement dollar amount was determined. The City subsequently received quotes from several qualified licensed contractors, awarding a contract to the lowest quoting contractor, an emerging business owner, BRUCE SMITH ROOFING, for the price of \$9,880.00.

As the company proceeded with repairing the roof, they discovered that the roof deck was only 3/8" thick plywood and under that they uncovered two (2) layers of wood shingles. The City's current code called for all of the roof systems to be stripped off, which the original roof deck was comprised of spaced planking and is in need to be entirely resurfaced with plywood to meet the City's code requirements.

**Financial Considerations:** There is a project already approved and initiated with funds from the insurance carrier that has the capacity to cover this change order. Risk Management has already contacted the insurance carrier to recover the cost of the hidden roof systems.

**Goal Impact:** Ensure Efficient Infrastructure – Maintain and Optimize Public Facilities and Assets. Due to its high usage as a neighborhood and community asset it is imperative to keep the entire structure viable.

**Legal Considerations:** The Law Department has reviewed the Resolution and Change Order documents as to form.

**Recommendations/Actions:** It is recommended that the City Council approve the Change Order, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Change Order and Resolution.

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA  
PERMITTING AN EXCEPTION TO THE CHANGE ORDER POLICY  
AS PROVIDED BY CITY OF WICHITA CHARTER ORDINANCE NUMBE 198

WHEREAS, by charter ordinance number 198, the City Council is authorized to permit exceptions to the percentage limitation on the dollar amount of change orders that may be approved for a specific public improvement; and

WHEREAS on April 1, 2008, the City Purchasing Manager approved a contract with Bruce Smith Roofing for tear out and replacement of the existing roof at the La Familia facility, located at 841 W. 21st St. N.; and

WHEREAS in the process of tear out of the existing roofing materials, the contractor discovered conditions that were unanticipated, not apparent from inspection, and not known to city staff, which required substantial additional work in order to accomplish the intended result of a new roof installed in a workmanlike manner on the La Familia facility; and

WHEREAS approval of the work necessary will exceed the original contract price, clearly triggering the need for an exception to the 10% change order limitation set out in charter ordinance number 198.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. The proposed change order to the roof replacement contract with Bruce Smith Roofing will exceed 10% of the original contract, and the City Council hereby deems the work covered by this change order to be in the best interests of the City of Wichita to assure continued provision of services to city residents served from the La Familia facility.

Section 2. An exception to the change order policy as authorized by charter ordinance number 198 is hereby permitted, and City Council may approve the change order requested in the additional amount of \$10,085.00 to the roof replacement contract with Bruce Smith Roofing.

PASSED AND APPROVED by the governing body of the City Wichita, Kansas, this date:  
\_\_\_\_\_.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**CONTRACT**  
**to**  
**PROVIDE LOCAL TECHNOLOGY TRAINING**  
**AND COMPUTER-BASED TRAINING**  
**BP800042**

**THIS CONTRACT** entered into this 20<sup>th</sup> day of May, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **PCT NEW HORIZON INC.** (Vendor Code Number 822017-001), whose principal office is at 3450 North Rock Road, Building 700, Suite 705, Wichita, Kansas 67216, Telephone Number (316) 687-2600 hereinafter called "**VENDOR**".

**WITNESSETH:**

**WHEREAS**, the **CITY** has solicited proposals to **Provide Local Technology Training and Computer- Based Training** (Formal Proposal – FP800007) [Commodity Code Number 91838]; and

**WHEREAS, VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

**NOW, THEREFORE**, the parties hereto agree as follows:

**1. Scope of Services.** **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800007, [Commodity Code Number 91838] which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications and plans provided by the City of Wichita as part of the proposal letting process for Formal Proposal FP800007, shall be considered a part of this contract and is incorporated by reference herein.

**2. Compensation.** **CITY** agrees to pay to **VENDOR** the following **unit price** to **Provide Local Technology Training and Computer- Based Training** - Formal Proposal – FP800007 [Commodity Code Number 91838], for the Information Technology/Information Services Department as per the proposal, specifications and **VENDOR'S** proposal of January 13, 2008 and as approved by the City Council on May 20, 2008.

<u>Type</u>	<u>Rate Per Day/Per Student Pricing</u>
Application	\$150.00
Technical	\$300.00

**\*NOT TO EXCEED \$40,000.00 TOTAL CONTRACTURAL PRICE**

Billing Terms – Net Thirty (30) Days

**3. Term.** The term of this contract shall be from **May 20, 2008, through April 30, 2009**, with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of both parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.

**4. Indemnification and Insurance.**

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

**5. Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

**6. Compliance with Laws.** **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

**7. No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

**8. Non-Discrimination.** **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

**9. Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

**10. No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in proposal documents is deemed void.

**11. Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

**12. Representative's Authority to Contract.** By signing this contract, the representative of the contractor or vendor represents the he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

**IN WITNESS WHEREOF**, the parties have set their hands the day and year first above written.

**ATTEST:**

**CITY OF WICHITA, KANSAS**

\_\_\_\_\_  
Janis Edwards  
Deputy City Clerk

\_\_\_\_\_  
Carl G. Brewer  
Mayor

**APPROVED AS TO FORM:**

**PCT NEW HORIZON INC.**

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title (President or Corporate Officer)*

## EXHIBIT A

### REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
  
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**CONTRACT**  
**to**  
**PROVIDE LOCAL TECHNOLOGY TRAINING**  
**AND COMPUTER-BASED TRAINING**  
**BP800043**

**THIS CONTRACT** entered into this 20<sup>th</sup> day of May, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **EXECUTRAIN OF WICHITA LLC**, (Vendor Code Number 809284-001), whose principal office is at 727 N. Waco, Suite 180, Wichita, Kansas 67203, Telephone Number (316) 267-4000 hereinafter called "**VENDOR**".

**WITNESSETH:**

**WHEREAS**, the **CITY** has solicited proposals for **Local Technology Training and Computer- Based Training** (Formal Proposal – FP800007) [Commodity Code Number 91838]; and

**WHEREAS, VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

**NOW, THEREFORE**, the parties hereto agree as follows:

**1. Scope of Services. VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800007, [Commodity Code Number 91838] which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications and plans provided by the City of Wichita as part of the proposal letting process for Formal Proposal FP800007, shall be considered a part of this contract and is incorporated by reference herein.

**2. Compensation. CITY** agrees to pay to **VENDOR** the following **unit price** to **Provide Local Technology Training and Computer-Based Training** - Formal Proposal – FP800007[Commodity Code Number 91838], for the Information Technology/Information Services Department as per the proposal, specifications and **VENDOR'S** proposal of January 13, 2008 and as approved by the City Council on May 20, 2008.

<u>Type</u>	<u>Rate Per Day</u>
<b>Level 1 = Business Applications</b> (Word, Excel, PowerPoint, Outlook etc.)	<b>\$135.00</b>
<b>Level 2 = Expert Topics</b>	<b>\$175.00</b>

(Dreamweaver, FrontPage, HTML, etc.)

**Level 3 = Technical** **\$300.00**

(SQL Query, Unix, A+, VB Scripting, Linux+, Crystal Reports etc.)

**Level 4 = Advanced Technical** **\$335.00**

(Windows Server, Exchange Server, Cisco, Citrix, NET, SQL Server, Security, SMS etc.)

**\*NOT TO EXCEED \$40,000.00 TOTAL CONTRACTURAL PRICE**

Billing Terms – Net Thirty (30) Days

**3. Term.** The term of this contract shall be from **May 20, 2008, through April 30, 2009**, with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of both parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.

**4. Indemnification and Insurance.**

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

**5. Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

**6. Compliance with Laws.** **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

**7. No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

**8. Non-Discrimination.** **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

**9. Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

**10. No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in proposal documents is deemed void.

**11. Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

**12. Representative's Authority to Contract.** By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

**IN WITNESS WHEREOF**, the parties have set their hands the day and year first above written.

**ATTEST:**

**CITY OF WICHITA, KANSAS**

\_\_\_\_\_  
Janis Edwards  
Deputy City Clerk

\_\_\_\_\_  
Carl G. Brewer  
Mayor

**APPROVED AS TO FORM:**

**EXECUTRAIN OF WICHITA LLC**

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Title (Managing Member)*

## EXHIBIT A

### REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
  
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated

or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Providing Local Technology Training and Computer-Based Training – Selection of Vendors

**INITIATED BY:** IT/IS

**AGENDA:** Consent

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**Recommendation:** Approve contracts.

**Background:** IT/IS contracts with technology training vendors to provide local and computer-based technology training. This training is necessary to maintain the efficiency of the City of Wichita computing environment by keeping staff current with technology.

**Analysis:** A competitive Request for Proposal (FP800007) was issued for “Providing Local Technology Training and Computer-based Training” and 2 responses were received. A staff screening and selection committee reviewed and evaluated the proposals based on the criteria set forth in the Request for Proposal. During the evaluation, the committee determined that each company had unique offerings and advantages, all of which would enhance the IT/IS training program. Therefore the committee determined that PCT New Horizons INC. should be contracted for desktop and entry-level training and ExecuTrain of Wichita LLC should be contracted for advance technical training. The new contracts will be for one year with options to renew under the same terms and conditions for two (2) additional one (1) year periods by mutual agreement of both parties.

**Financial Considerations:** Technology training costs are within departmental operating budgets, and the annual total is expected not to exceed \$80,000.

**Goal Impact:** Increase Employee Knowledge, Skills & Abilities.

**Legal Considerations:** The Law Department has reviewed and approve the contracts as to form.

**Recommendation/Action:** It is recommended that the City Council approve the contracts to PCT New Horizons INC and ExecuTrain of Wichita LLC and authorize the necessary signatures.

**Attachment:** BP800042 Contract – New Horizons and BP800043 Contract – Executrain

**ACCESS TO JOBS  
Vendor Agreement**

This Agreement is entered into this 20th day of May, 2008 by and between the City of Wichita - Wichita Transit, hereinafter referred to as "City", and American Cab Company hereinafter referred to as "Vendor." Hereinafter both "City" and "Vendor" shall be jointly referred to as "parties."

WHEREAS, The purpose of the program is to provide transportation services for employment purposes under project number KS-37-X001-00, entitled Job Access and Reverse Commute grant program, and

WHEREAS, The Vendor guarantees the ability to provide transportation services in a safe and professional nature, as required by City, to qualified clientele within the geographic boundaries of the City of Wichita.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto agree as follows:

1. Term: This Agreement shall become a legal and binding contract upon signature of same by both parties, commencing June 2008, for a period of one year ending June 2009 with the option to renew for up to two (2) additional, successive one (1) year terms.
2. Compensation: Parties expressly understand and agree that payments made to Vendor pursuant to the terms of this Agreement shall be on a fee-for-service basis according to the rates outlined in Appendix A and according to the method of billing and payment as set forth in Appendix A.
3. Termination: This Agreement may be terminated by either party, upon thirty (30) days written notice, stating the effective date of the termination. Whether this Agreement is cancelled by City or Vendor as provided herein, Vendor shall be paid for work satisfactorily completed to date of termination, as long as the provisions applicable to Billing and Payment have been met by Vendor.
4. Indemnification: Vendor shall indemnify, defend and hold harmless the City of Wichita and the City Council, directors, officers, employees, agents, legal representatives, heirs, successors and assigns (collectively referred to as "Indemnified Parties") from and against any and all losses, costs, injuries, claims, damages, expenses and liabilities, including attorneys' fees (without limitations), collectively referred to as "Liabilities," arising out of or resulting from, (i) the provision by Vendor of transportation services hereunder, or (ii) the failure of the Vendor to fulfill any of its obligations pursuant to this Agreement.
5. Duties: Vendor shall perform duties pursuant to this Agreement as listed in Appendix B. City shall perform duties pursuant to this Agreement as listed in Appendix B. All duties listed in the Appendix B are set forth in KS-37-X001-00.
6. Local and Federal Compliance: The parties shall comply with the requirements of all applicable federal, state, and local rules and regulations, standard assurances, and one time submissions, listed under Appendix A, B, and C.
7. Assignment: Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.
8. Amendments: This Agreement may not be amended unless such amendment is in writing and signed by both parties.
9. Incorporation of Appendices: Appendix A, B, and C are attached hereto and made a part hereof.

IN WITNESS WHEREOF, City and Vendor have executed this Agreement as of the day and year first above written.

CITY COUNCIL, WICHITA, KS

AMERICAN CAB COMPANY

---

Carl Brewer, Mayor

---

Ted Hill  
400 S. Greenwood  
Wichita, KS 67211

ATTEST:

---

Karen Sublett  
City Clerk

APPROVED AS TO FORM:

---

Gary Rebensdorf  
City of Wichita, Department of Law

## APPENDIX A

### GENERAL CONTRACTUAL PROVISIONS FOR VENDORS

It is mutually agreed by and between the City of Wichita – Wichita Transit and Vendor that it is the purpose of this program that Vendor provide transportation services to “Eligible Passengers” as defined herein, in order to provide access to employment and services that facilitate continued employment. The program is named, “ACCESS To JOBS.”

#### GENERAL PROVISIONS.

##### A. AUTHORITY TO CONTRACT.

1. **Affirmation of Legal Authority.** Vendor assures it possesses legal authority to contract these services, that resolution, motion or similar action has been duly adopted or passed as an official act of Vendor’s governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Vendor to act in connection with the application and to provide such additional information as may be required.
2. **Required Documentation.** Domestic (Kansas) corporations, limited liability companies, or other business forms requiring statutory conformance shall furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. Domestic corporations shall furnish a copy of its Corporate Resolution evidencing the authority to sign this Agreement, executed by the Corporation’s Secretary or Assistant Secretary.

##### B. RELATIONSHIP OF PARTIES.

It is agreed that the legal relationship between Vendor and City of Wichita is of a contractual nature. Both parties assert and believe that Vendor is acting as an independent vendor in providing the services and performing the duties required by the City of Wichita hereunder. Vendor is at all times acting as an independent vendor and not as an officer, agent, or employee of the City of Wichita. As an independent vendor, Vendor, and employees of Vendor will not be within the protection or coverage of City of Wichita’s worker’s compensation insurance subject to the provisions of K.S.A. 1997 Supp. 44-505, nor shall Vendor, and employees of Vendor, be entitled to any current or future benefits provided to employees of City of Wichita. Further, City of Wichita shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by City of Wichita to Vendor.

##### C. PERSONNEL.

1. **Qualified Personnel.** Vendor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any other contractual relationship with City of Wichita. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this Agreement.
2. **Minimum Wages.** Vendor shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.
3. **Employee Conflict of Interest.** Vendor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

4. **Employee Background Checks.** The parties to this Agreement recognize that those entities or persons providing government funded services to the public are subject to public scrutiny. Consequently, by entering into this Agreement, Vendor assumes an affirmative and ongoing duty during the term of this Agreement to guarantee and maintain compliance with requirements set forth in Subsection 5 below. Such compliance will require the use of criminal or other legal background checks upon all personnel or agents providing services pursuant to this Agreement, or administering the funds conveyed under this Agreement.
5. **Participant Safeguard.** Vendor certifies that:
  - (a) Persons convicted of any felony, drug or drug related offense, crime of falsehood or dishonesty, or a crime against another person during the ten-year period concluding on the date of execution of this Agreement or during the term of this agreement shall not be permitted to provide services, administer this Agreement, or handle the funds conveyed under this Agreement;
  - (b) Persons with convictions during the ten-year period concluding on the date of execution of this Agreement or during the pendency of this Agreement for crimes of moral turpitude, including, but not limited to, sex offenses and crimes against children, shall not be permitted to interact in any way with persons served pursuant to this Agreement; and
  - (c) Persons having been convicted of a serious driving offense, including but not limited to driving under the influence of alcohol or a controlled substance, during the ten-year period concluding on the date of execution of this Agreement, or during the pendency of this Agreement, shall not be permitted to operate a vehicle in which a person served pursuant to this Agreement is a passenger. For purposes of this section, “serious traffic offense” shall not include any offense deemed a “traffic infraction” under K.S.A. 8-2116 and 8-2118.
  - (d) Any questions concerning the interpretation of this subsection and/or its application to an individual shall be referred to the City of Wichita Department of Law. The Department of Law’s decision shall be final for purposes of compliance with this Agreement. The term “conviction” shall include convictions from any federal, state, local, military, or other court of competent jurisdiction, and shall include being placed into a diversion or deferred judgement program in lieu of prosecution.

#### **D. PROHIBITION OF CONFLICTS OF INTEREST.**

1. **Interest of Public Officials and Others.** No officer or employee of the City of Wichita, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects such person’s personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of City of Wichita or any member of its governing body or other public official have any interest, direct or indirect, in this Agreement or the proceeds thereof.
2. **Interest of Vendor.** Vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.
3. **Employee Conflicts.** Situations in which a) an employee of the City of Wichita shall also be an employee of the Vendor at the time of the Agreement, b) an employee of the Vendor seeks additional/alternative employment with City of Wichita during term of the Agreement, or c) an employee of the City of Wichita seeks additional/alternate employment with Vendor during term of this Agreement, shall require written notice to the City of Wichita. The City of Wichita shall

make every effort to assure that such employees do not have any authority to approve a) grant funds, b) agreements, or c) affiliate status to the Vendor or Vendor's competitors.

**E. FUNDING.**

**Cash Basis and Budget Laws.** The right of the City of Wichita to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City of Wichita shall at all times stay in conformity with such laws, and as a condition of this Agreement the City of Wichita reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

**F. RECORDS, REPORTS AND INSPECTION.**

1. **Documentation of Costs.** All costs incurred by Vendor for which Vendor purports to be entitled to reimbursement shall be supported by proper invoices, vouchers, or other documentation evidencing in proper detail the nature and propriety of charges. All checks, invoices, vouchers, payrolls, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to both parties to this Agreement.
2. **Maintenance of Records.** Except as otherwise authorized by City of Wichita, Vendor shall retain such documentation as listed in paragraphs F1 and F3 for a period of three (3) years after receipt of the final expenditure report under this Agreement, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond the three (3) year period.
3. **Reports.** During the term of this Agreement, Vendor shall furnish City of Wichita, in such form as City of Wichita may require, such statements, records, reports, data and information as City of Wichita requests pertaining to matters covered by this Agreement. Payments to Vendor will be withheld by City of Wichita if Vendor fails to provide all required reports in a timely, complete and accurate manner, until such time as all reports are furnished to City of Wichita.
4. **Audit.** Vendor shall provide for an annual independent audit of its financial records which apply to this Agreement only and shall supply a copy of said audit to City of Wichita.
5. **Availability of Records.** Vendor agrees to make any and all of its records, books, papers, documents, and data available to City of Wichita, or to the authorized representative of the federal, state or local agency with statutory oversight authority, for the purposes of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies, and transcriptions at any time during the term of this Agreement and for a period of three (3) years following the final payment under the terms of this Agreement.
6. **Confidentiality.** Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

**G. METHOD OF BILLING AND PAYMENT.**

1. **Billing Procedures.** Vendor agrees that billings and payments made under this Agreement shall be processed in accordance with established budgeting, purchasing and accounting procedures of the City of Wichita. Payment shall be made as soon as procedures allow after receipt of billing.
  - (a) **Monthly Billing.** A monthly billing system will be used and all billings, statements, and other necessary supporting documentation must be submitted by the 15<sup>th</sup> day of the month following the billing period. Failure to submit timely billings will result in extended delays in receiving payment from City of Wichita for such services.

- (b) **Billing Content.** All billings from Vendor to City of Wichita shall include an itemization of each ride provided with the units of service, date of ride, Eligible Passengers names, and total rides or units of service provided for each passenger.
  - (c) **Billing Procedure.** City of Wichita will process the billings, verify the information/data submitted, and issue a check pursuant to City of Wichita's standard purchasing procedures.
  - (d) **Charges for Service.** Transportation reimbursements will be made on a per trip basis. The cost per trip within the geographical confines of the City of Wichita, will be at a rate of \$15.00 per trip and \$4.50 for a no-show.
  - (e) **Extended Trips.** Trips made beyond the geographical boundaries of the City of Wichita, will be at a higher rate than that set forth in d, above. The rate for these trips will be negotiated as the need for service expansion warrants.
  - (f) **Rates Reviewed.** Trip rates will be reviewed on a quarterly basis, and may be subject to revision. Any change in trip rates will be agreed upon by the City and Vendor, in writing, before implementation.
2. **Support Documentation.** Billing shall be supported with documentation required by City of Wichita including, but not necessarily limited to, that documentation described in Section F above.
  3. **Reimbursement Restrictions.** Payments shall be made to Vendor only for items and services provided to support the Agreement purpose when such items and services are specifically authorized by this Agreement. City of Wichita reserves the right to disallow reimbursement for any item or service billed by Vendor if City of Wichita believes that such item or service was not provided to support the Agreement purpose or was not authorized by Agreement.
  4. **Service by Vendor.**
    - (a) Service is to be provided by the Vendor in a prompt and courteous manner. Passengers are to be authorized by the City before Vendor provides eligible rides. Passengers are to be picked up no later than fifteen (15) minutes after the scheduled pick-up time. If a situation dictates, that the fore-mentioned condition may not be met, Vendor must contact City immediately.
    - (b) Vendor must have a back-up system in place to ensure that authorized rides from the City are provided and that no Eligible Passenger is left stranded.
    - (c) Vendor will not collect any charge from an Eligible Passenger.
    - (d) Vendor shall comply with the Federal Drug and Alcohol regulations, as set forth in Appendix C. Pre-employment, post accident, and random tests shall be conducted for any and all safety sensitive Vendor positions that perform duties under the terms of this Agreement.

## H. LICENSES AND PERMITS.

Vendor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out this Agreement. Vendor shall maintain worker's compensation insurance in amounts not less than minimum statutory requirements. Vendor shall notify City of Wichita immediately if any required license, permit, bond or insurance is cancelled, suspended, or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation by City of Wichita, in its discretion.

**I. INSURANCE.**

Vendor shall provide to City of Wichita a Certificate of Insurance evidencing Comprehensive General Liability, Professional Liability, and Comprehensive Automobile Liability coverage as follows:

- |    |   |                           |
|----|---|---------------------------|
| 1. | Bodily Injury   | \$500,000 Each Occurrence |
| 2. | Property Damage   | \$500,000 Each Occurrence |
| 3. | Personal Injury   | \$500,000 Each Person     |
| 4. | Automobile Liability<br>(owned, not owned, hired, rented or otherwise): |                           |
|    | a) Bodily Injury  | \$500,000 Each Accident   |
|    | b) Property Damage  | \$500,000 Each Accident   |
| 5. | Professional Liability  | \$500,000                 |
| 6. | Workers Compensation / Employers Liability                              | \$100,000 Each Accident   |

**J. SUBCONTRACTING.**

None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City of Wichita. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any. Notwithstanding the City of Wichita's consent to any subcontractors, vendors shall remain fully responsible for all obligations of this Agreement, including indemnification of City of Wichita for all acts of subcontractors.

**K. TERMINATION OF AGREEMENT.**

1. **Termination for Cause.** If Vendor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Vendor shall violate any of the terms, covenants, conditions or stipulations of this Agreement, City of Wichita shall thereupon have the right to terminate this Agreement by giving written notice to Vendor of such termination, specifying the effective date thereof.

In the event of termination, such information prepared by Vendor to carry out this Agreement, including data, studies, surveys, records, drawings, maps, and reports shall, at the option of the City of Wichita, become the property of the City of Wichita and be immediately turned over to the City of Wichita. Vendor shall be entitled to just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, Vendor shall not be relieved of liability to City of Wichita by virtue of any breach of this Agreement by Vendor and City of Wichita may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damages due City of Wichita from Vendor are determined.

2. **Termination of Agreement on Other Grounds.** This Agreement may be terminated in whole or in part by either party, upon thirty (30) days written notice, stating the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto.

**L. NOTIFICATION.**

Any formal notice required or permitted under this Agreement shall be deemed sufficiently given if in writing and delivered by public or private carrier, personal delivery, sent by registered or certified mail (return receipt requested) or sent by means of telefacsimile or telecopier, to the party whom said notice is to be given. Notices delivered in person or sent via telefacsimile or telecopier shall be deemed to be served effective as of the date the notice is delivered or sent. Notices sent by registered or certified mail (return receipt requested) shall be deemed to be served forty-eight (48) hours after the date said notice is postmarked to the addressee, postage prepaid.

Contractor: City of Wichita – Wichita Transit  
Attn: General Manager  
Address: 777 E. Waterman  
Phone: (316) 352-4824  
Fax: (316) 352-9287

Vendor: American Cab Company  
Attn: Ted Hill  
Address: 400 S. Greenwood  
Phone: (316) 262-7511  
Fax: (316)262-0732

**M. MISCELLANEOUS.**

1. The failure of either party to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any option, right or remedy herein contained, should not be construed as a waiver or relinquishment for the future of such term, provision, option, right or remedy. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by the waiving party.
2. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.
3. In the event that any provision in this Agreement shall be adjudicated invalid under applicable laws, such invalid provision shall automatically be considered reformed and amended so as to conform to all applicable legal requirements, or, if such invalidity cannot be cured by reformation or amendment, the same shall be considered stricken and deleted, but in neither such event or events shall the validity or enforceability of the remaining valid portions hereof be affected thereby.
4. Both parties hereto represent and agree that: (I) they have reviewed all aspects of this Agreement; (ii) they have been given the opportunity to review this Agreement with counsel; and (iii) they have carefully read and fully understand all provisions of this Agreement.

## APPENDIX B

### VENDOR / CITY CONTRACTUAL DUTIES

#### GENERAL CONDITIONS.

##### A. DEFINITIONS.

1. **Unit of Service.** One, one-way trip equals one unit of service per Eligible Passenger. A round trip taken by an Eligible Passenger equals two units of service.
2. **Service.** Transportation to and from specific employment or employment related site as authorized by City for Eligible Passengers.
3. **Eligible Passenger.** Residents of the greater Wichita Employment area who are certified and approved as eligible by City of Wichita.

##### B. VENDOR DUTIES.

1. Vendor agrees that any funds provided for services under this Agreement will be paid on a fee-for-services basis only.
2. Vendor shall be subject to annual audit in accordance with the provisions set forth in Appendix A.
3. Vendor agrees that its records used in preparation of all reports are subject to review by City to ensure the accuracy and validity of the information reported.
4. Vendor shall promptly provide notice to the City if it is unable to provide the required quantity or quality of services.
5. Vendor agrees that all rides are to be pre-authorized by the City.
6. Vendor shall maintain all applicable records on such forms as designated by the City.
7. Vendor agrees that they will not provide "private" or unauthorized rides to Eligible Passengers.
8. Vendor shall comply with the Federal Drug and Alcohol regulations as set forth in Appendix C. Pre-employment, post accident, and random tests shall be conducted for any and all safety sensitive Vendor positions that perform duties under the terms of this Agreement.
9. Service is to be provided by the Vendor in a prompt and courteous manner. Passengers are to be authorized by the City for eligible rides. Passengers are to be picked up no later than fifteen (15) minutes after the scheduled pick up time. If conditions dictate that this is not possible for a particular trip, Vendor must notify City immediately.
10. Vendor must have a back up system in place to ensure that authorized rides from City are provided and that no Eligible Passenger is left stranded.
11. Vendor will not collect any charge from the Eligible Passenger.
12. Vendor must utilize car seats and booster seats, as per K.S.A. 8-1344, and K.S.A. 8-2501, when transporting minors (14 and under).

##### C. CITY DUTIES:

1. Provide all Administrative services necessary to implement the program.

2. Oversee the daily exercise of the program and assure compliance of the regulations as set forth in the entire contractual document.
3. Schedule and coordinate all transportation rides with the appropriate Vendor.
4. Issue payments to Vendor as described in Appendix A, based on authorized trips.

## APPENDIX C

### FEDERAL AND STATE REGULATIONS

#### U. S. FEDERAL

FTA has developed certain Standard Terms and Conditions required by DOT. These contractual provisions required by DOT, as set forth in FTA Circular 4220.1C, dated May 1, 1995, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause the City to be in violation of the FTA terms and conditions.

#### **A. PROJECT IMPLEMENTATION.**

##### **1. Application of Federal, State, and Local Laws and Regulations.**

- (a) Federal laws or laws authorizing Project approval control Project implementation. The Vendor acknowledges that Federal laws, regulations, policies, and related administrative practices applicable to the Project on the date the authorized City official signs the Master Agreement may be modified from time to time. In particular, new Federal laws, regulations, policies, and administrative practices may be promulgated after the date when the Vendor executes the Master Agreement, and might apply to that Master Agreement. The Vendor agrees that the most recent of such Federal requirements will govern the administration of the Project at any particular time, unless FTA issues a written determination otherwise. FTA's written determination may be issued as a Special Condition or Requirement within the Master Agreement or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of this Master Agreement. All standards or limits within this Master Agreement are minimum requirements, unless modified by FTA.
- (b) Except when a Federal statute or regulation preempts State of Kansas, City of Wichita, or territorial law, no provision of the Master Agreement shall require the Vendor to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State of Kansas, City of Wichita, or territorial law. Thus if any provision or compliance with any provision of the Grant Agreement, Cooperative Agreement or this Master Agreement violate State of Kansas, City of Wichita, or territorial law, or would require the Vendor to violate State of Kansas, City of Wichita, or territorial law, the Vendor agrees to notify the City immediately in writing. Should this occur, the City and the Vendor agree to make appropriate arrangements to proceed with or, if necessary, terminate the Project as quickly as possible.

##### **2. Vendor's Responsibility to Federal Requirements.**

- (a) Entities Affected - Only the entities that are signatories to this Master Agreement for the Project are parties to that agreement. Accordingly, the City agrees to take appropriate measures necessary to ensure all Project participants comply with applicable Federal requirements affecting their performance.
- (b) Documents Affected - Applicable provisions of the Federal statutes, regulations, and directives establishing that Federal requirement determine the extent to which a specific Federal requirement affects a Vendor as participant. Accordingly, the Vendor agrees to ensure that they will comply with applicable Federal requirements.

3. **No Federal Government Obligations to Third Parties.** The Vendor agrees that, absent either Federal, State of Kansas, or City of Wichita Governments express written consent, the Governments shall not be subject to any obligations or liabilities to any recipient, or any other person not a party to the Master Agreement in connection with the performance of the Project. Notwithstanding any concurrence provided by the Governments in or approval of any solicitation, or sub-agreement, the Governments continue to have no obligations or liabilities to any party.
4. **Changes in Project Performance (including Disputes, Breaches, Defaults or Litigation).** The Vendor agrees to notify the City immediately of any change in conditions (such as its legal, financial, or technical capacity), or any other event that may significantly affect the Vendors ability to perform the Project in accordance with the terms of the Master Agreement. In addition, the Vendor agrees to notify the City immediately of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Governments interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. The Vendor agrees to inform the City before naming either the City or the Federal Government as a party to litigation for any reason, in any forum.

## B. CIVIL RIGHTS

The Vendor agrees to comply with all applicable civil rights statutes, and implementing regulations including, but not limited to the following:

1. **Nondiscrimination in Transit Programs.** The Vendor agrees to comply with the provisions of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
2. **Nondiscrimination - Title VI of the Civil Rights Act.** The Vendor agrees to comply with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, and any implementing requirements FTA may issue.
3. **Equal Employment Opportunity.** The Vendor agrees to comply with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements City and FTA may issue. Those equal employment opportunity (EEO) requirements include, but are not limited to, the following:
  - (a) General Requirements - The Vendor agrees as follows:
    - (1) It will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Vendor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor also agrees to comply with any implementing requirements the City and FTA may issue.
    - (2) If the Vendor is required to submit and obtain City approval of its EEO program, that EEO program approved by the City is incorporated by reference and made part of the Master Agreement. Failure by the Vendor to carry out the terms of that EEO program shall be treated as a violation of the Master Agreement. Upon notification to the Vendor of its failure to carry out the

approved EEO program, the City may impose such remedies as it considers appropriate, including termination of financial funds in accordance with this Master Agreement, or other measures that may affect the Vendors eligibility to obtain future financial funds for transportation projects.

4. **Nondiscrimination on the Basis of Sex.** To the extent applicable, the Vendor agrees to comply with Title IX of the Education Amendments of 1972, as amended, 20 U. S.C. § § 1680 et seq., which prohibit discrimination on the basis of sex., and any subsequent Federal requirements.
5. **Nondiscrimination on the Basis of Age.** The Vendor agrees to comply with the applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S. C. § § 61 01 et seq., and implementing regulations, which prohibits discrimination on the basis of age.
6. **Access Requirements for Persons with Disabilities.** The Vendor agrees to comply with the requirements of 49 U. S. C. § 5 3 01 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Vendor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S. C. § § 121 01 et seq., which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:
  - (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
  - (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (c) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
  - (d) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
  - (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
  - (f) U.S. GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
  - (g) U.S. Equal Employment Opportunity Commission, "Regulations to implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
  - (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
  - (i) FTA regulations, "Transportation for Elderly and Handicapped Persons, 49 C.F.R. Part 609; and
  - (j) Any implementing requirements FTA may issue.

7. **Drug or Alcohol Abuse: Confidentiality and Other Civil Rights Protections.** The Vendor agrees to comply with the confidentiality and other civil rights provisions of the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and the Public Health Service Act of 1912, 42 U.S. C. § § 290dd-3 and 290ee-3, including any amendments to these acts.
8. **Other Nondiscrimination Statutes.** The Vendor agrees to comply with any other nondiscrimination statute(s) that may apply to the Project.

**C. ENERGY CONSERVATION.**

The Vendor agrees to comply with the mandatory energy efficiency standards and policies within the applicable energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq.

**D. SUBSTANCE ABUSE.**

1. **Drug Abuse.**

- (a) The Vendor agrees to comply with U.S. DOT regulations, "Drug-Free Workplace Requirements(Grants)," 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. §§ 702 et seq.
- (b) To the extent applicable, the Vendor agrees to comply with FTA regulations, "Prevention of Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 653, and any guidance on the drug abuse provisions of 49 U.S.C. § 5331 that FTA or U.S. DOT may issue.

2. **Alcohol Abuse.** To the extent applicable, the Vendor agrees to comply with FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," 49 C.F.R. Part 654, and any guidance on the alcohol abuse provisions of 49 U.S.C. § 5331 that FTA or U.S. DOT may issue.

**STATE OF KANSAS**

**A. AGREEMENT WITH KANSAS LAW.**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

**B. DISCLAIMER OF LIABILITY.**

Neither the State of Kansas nor any agency thereof, nor the City, shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

**C. RESPONSIBILITY FOR TAXES.**

Neither the State of Kansas, nor the City, shall be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

**City of Wichita  
City Council Meeting  
May 20, 2008**

**To:** Mayor and City Council  
**Subject:** Access to Jobs Vendor Agreement with American Cab Company  
**Initiated By:** Wichita Transit  
**Agenda:** Consent Agenda

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**Recommendation:** Approve the Access to Jobs Vendor Agreement with American Cab Company.

**Background:** The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October, 2000, Access to Jobs has provided over 655,894 rides. By entering into a vendor agreement with American Cab Company, the program can provide over 6,000 more rides a year to low-income clients in a very cost-effective manner.

**Analysis:** Part of the Access to Jobs grant from the Federal Transit Administration is to provide half the cost of the rides for low-income clients when they are trying to enter the work force. The other half of the cost is borne by Social and Rehabilitation Services, COMCARE, the Mental Health Association, and the Breakthrough Club.

**Financial Consideration:** The Access to Jobs rides will be purchased with grants from FTA (50%) and a (50%) local match from the four agencies listed above. No city funds will be involved in purchasing rides from American Cab Company.

**Goal Impact:** To ensure an efficient infrastructure by maintaining and optimizing public facilities and assets.

**Legal Consideration:** The Law Department has reviewed and approved the Vendor Agreement as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the Vendor Agreement and authorize the necessary signatures.

Attachment: Access to Jobs Vendor Agreement (American Cab Company)

**ACCESS TO JOBS  
Vendor Agreement**

This Agreement is entered into this 20th day of May, 2008 by and between the City of Wichita - Wichita Transit, hereinafter referred to as "City", and the ABC Taxi Cab Company, Inc. hereinafter referred to as "Vendor." Hereinafter both "City" and "Vendor" shall be jointly referred to as "parties."

WHEREAS, The purpose of the program is to provide transportation services for employment purposes under project number KS-37-X001-00, entitled Job Access and Reverse Commute grant program, and

WHEREAS, The Vendor guarantees the ability to provide transportation services in a safe and professional nature, as required by City, to qualified clientele within the geographic boundaries of the City of Wichita.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto agree as follows:

1. Term: This Agreement shall become a legal and binding contract upon signature of same by both parties, commencing June 2008, for a period of one year ending June 2009 with the option to renew for up to two (2) additional, successive one (1) year terms.
2. Compensation: Parties expressly understand and agree that payments made to Vendor pursuant to the terms of this Agreement shall be on a fee-for-service basis according to the rates outlined in Appendix A and according to the method of billing and payment as set forth in Appendix A.
3. Termination: This Agreement may be terminated by either party, upon thirty (30) days written notice, stating the effective date of the termination. Whether this Agreement is cancelled by City or Vendor as provided herein, Vendor shall be paid for work satisfactorily completed to date of termination, as long as the provisions applicable to Billing and Payment have been met by Vendor.
4. Indemnification: Vendor shall indemnify, defend and hold harmless the City of Wichita and the City Council, directors, officers, employees, agents, legal representatives, heirs, successors and assigns (collectively referred to as "Indemnified Parties") from and against any and all losses, costs, injuries, claims, damages, expenses and liabilities, including attorneys' fees (without limitations), collectively referred to as "Liabilities," arising out of or resulting from, (i) the provision by Vendor of transportation services hereunder, or (ii) the failure of the Vendor to fulfill any of its obligations pursuant to this Agreement.
5. Duties: Vendor shall perform duties pursuant to this Agreement as listed in Appendix B. City shall perform duties pursuant to this Agreement as listed in Appendix B. All duties listed in the Appendix B are set forth in KS-37-X001-00.
6. Local and Federal Compliance: The parties shall comply with the requirements of all applicable federal, state, and local rules and regulations, standard assurances, and one time submissions, listed under Appendix A, B, and C.
7. Assignment: Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.
8. Amendments: This Agreement may not be amended unless such amendment is in writing and signed by both parties.
9. Incorporation of Appendices: Appendix A, B, and C are attached hereto and made a part hereof.

IN WITNESS WHEREOF, City and Vendor have executed this Agreement as of the day and year first above written.

CITY COUNCIL, WICHITA, KS

ABC TAXI CAB COMPANY

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Carl Brewer, Mayor

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Ted Hill  
400 S. Greenwood  
Wichita, KS 67211

ATTEST:

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Karen Sublett  
City Clerk

APPROVED AS TO FORM:

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Gary Rebensdorf  
City of Wichita, Department of Law

## APPENDIX A

### GENERAL CONTRACTUAL PROVISIONS FOR VENDORS

It is mutually agreed by and between the City of Wichita – Wichita Transit and Vendor that it is the purpose of this program that Vendor provide transportation services to “Eligible Passengers” as defined herein, in order to provide access to employment and services that facilitate continued employment. The program is named, “ACCESS To JOBS.”

#### GENERAL PROVISIONS.

##### A. AUTHORITY TO CONTRACT.

1. **Affirmation of Legal Authority.** Vendor assures it possesses legal authority to contract these services, that resolution, motion or similar action has been duly adopted or passed as an official act of Vendor’s governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Vendor to act in connection with the application and to provide such additional information as may be required.
2. **Required Documentation.** Domestic (Kansas) corporations, limited liability companies, or other business forms requiring statutory conformance shall furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. Domestic corporations shall furnish a copy of its Corporate Resolution evidencing the authority to sign this Agreement, executed by the Corporation’s Secretary or Assistant Secretary.

##### B. RELATIONSHIP OF PARTIES.

It is agreed that the legal relationship between Vendor and City of Wichita is of a contractual nature. Both parties assert and believe that Vendor is acting as an independent vendor in providing the services and performing the duties required by the City of Wichita hereunder. Vendor is at all times acting as an independent vendor and not as an officer, agent, or employee of the City of Wichita. As an independent vendor, Vendor, and employees of Vendor will not be within the protection or coverage of City of Wichita’s worker’s compensation insurance subject to the provisions of K.S.A. 1997 Supp. 44-505, nor shall Vendor, and employees of Vendor, be entitled to any current or future benefits provided to employees of City of Wichita. Further, City of Wichita shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by City of Wichita to Vendor.

##### C. PERSONNEL.

1. **Qualified Personnel.** Vendor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any other contractual relationship with City of Wichita. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this Agreement.
2. **Minimum Wages.** Vendor shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.
3. **Employee Conflict of Interest.** Vendor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
4. **Employee Background Checks.** The parties to this Agreement recognize that those entities or persons providing government funded services to the public are subject to public scrutiny.

Consequently, by entering into this Agreement, Vendor assumes an affirmative and ongoing duty during the term of this Agreement to guarantee and maintain compliance with requirements set forth in Subsection 5 below. Such compliance will require the use of criminal or other legal background checks upon all personnel or agents providing services pursuant to this Agreement, or administering the funds conveyed under this Agreement.

5. **Participant Safeguard.** Vendor certifies that:

- (a) Persons convicted of any felony, drug or drug related offense, crime of falsehood or dishonesty, or a crime against another person during the ten-year period concluding on the date of execution of this Agreement or during the term of this agreement shall not be permitted to provide services, administer this Agreement, or handle the funds conveyed under this Agreement;
- (b) Persons with convictions during the ten-year period concluding on the date of execution of this Agreement or during the pendency of this Agreement for crimes of moral turpitude, including, but not limited to, sex offenses and crimes against children, shall not be permitted to interact in any way with persons served pursuant to this Agreement; and
- (c) Persons having been convicted of a serious driving offense, including but not limited to driving under the influence of alcohol or a controlled substance, during the ten-year period concluding on the date of execution of this Agreement, or during the pendency of this Agreement, shall not be permitted to operate a vehicle in which a person served pursuant to this Agreement is a passenger. For purposes of this section, “serious traffic offense” shall not include any offense deemed a “traffic infraction” under K.S.A. 8-2116 and 8-2118.
- (d) Any questions concerning the interpretation of this subsection and/or its application to an individual shall be referred to the City of Wichita Department of Law. The Department of Law’s decision shall be final for purposes of compliance with this Agreement. The term “conviction” shall include convictions from any federal, state, local, military, or other court of competent jurisdiction, and shall include being placed into a diversion or deferred judgement program in lieu of prosecution.

**D. PROHIBITION OF CONFLICTS OF INTEREST.**

- 1. **Interest of Public Officials and Others.** No officer or employee of the City of Wichita, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects such person’s personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of City of Wichita or any member of its governing body or other public official have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 2. **Interest of Vendor.** Vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.
- 3. **Employee Conflicts.** Situations in which a) an employee of the City of Wichita shall also be an employee of the Vendor at the time of the Agreement, b) an employee of the Vendor seeks additional/alternative employment with City of Wichita during term of the Agreement, or c) an employee of the City of Wichita seeks additional/alternate employment with Vendor during term of this Agreement, shall require written notice to the City of Wichita. The City of Wichita shall make every effort to assure that such employees do not have any authority to approve a) grant funds, b) agreements, or c) affiliate status to the Vendor or Vendor’s competitors.

**E. FUNDING.**

**Cash Basis and Budget Laws.** The right of the City of Wichita to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City of Wichita shall at all times stay in conformity with such laws, and as a condition of this Agreement the City of Wichita reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

**F. RECORDS, REPORTS AND INSPECTION.**

1. **Documentation of Costs.** All costs incurred by Vendor for which Vendor purports to be entitled to reimbursement shall be supported by proper invoices, vouchers, or other documentation evidencing in proper detail the nature and propriety of charges. All checks, invoices, vouchers, payrolls, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to both parties to this Agreement.
2. **Maintenance of Records.** Except as otherwise authorized by City of Wichita, Vendor shall retain such documentation as listed in paragraphs F1 and F3 for a period of three (3) years after receipt of the final expenditure report under this Agreement, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond the three (3) year period.
3. **Reports.** During the term of this Agreement, Vendor shall furnish City of Wichita, in such form as City of Wichita may require, such statements, records, reports, data and information as City of Wichita requests pertaining to matters covered by this Agreement. Payments to Vendor will be withheld by City of Wichita if Vendor fails to provide all required reports in a timely, complete and accurate manner, until such time as all reports are furnished to City of Wichita.
4. **Audit.** Vendor shall provide for an annual independent audit of its financial records which apply to this Agreement only and shall supply a copy of said audit to City of Wichita.
5. **Availability of Records.** Vendor agrees to make any and all of its records, books, papers, documents, and data available to City of Wichita, or to the authorized representative of the federal, state or local agency with statutory oversight authority, for the purposes of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies, and transcriptions at any time during the term of this Agreement and for a period of three (3) years following the final payment under the terms of this Agreement.
6. **Confidentiality.** Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

**G. METHOD OF BILLING AND PAYMENT.**

1. **Billing Procedures.** Vendor agrees that billings and payments made under this Agreement shall be processed in accordance with established budgeting, purchasing and accounting procedures of the City of Wichita. Payment shall be made as soon as procedures allow after receipt of billing.
  - (a) **Monthly Billing.** A monthly billing system will be used and all billings, statements, and other necessary supporting documentation must be submitted by the 15<sup>th</sup> day of the month following the billing period. Failure to submit timely billings will result in extended delays in receiving payment from City of Wichita for such services.

- (b) **Billing Content.** All billings from Vendor to City of Wichita shall include an itemization of each ride provided with the units of service, date of ride, Eligible Passengers names, and total rides or units of service provided for each passenger.
  - (c) **Billing Procedure.** City of Wichita will process the billings, verify the information/data submitted, and issue a check pursuant to City of Wichita's standard purchasing procedures.
  - (d) **Charges for Service.** Transportation reimbursements will be made on a per trip basis. The cost per trip within the geographical confines of the City of Wichita, will be at a rate of \$15.00 per trip and \$4.50 for a no-show.
  - (e) **Extended Trips.** Trips made beyond the geographical boundaries of the City of Wichita, will be at a higher rate than that set forth in d, above. The rate for these trips will be negotiated as the need for service expansion warrants.
  - (f) **Rates Reviewed.** Trip rates will be reviewed on a quarterly basis, and may be subject to revision. Any change in trip rates will be agreed upon by the City and Vendor, in writing, before implementation.
2. **Support Documentation.** Billing shall be supported with documentation required by City of Wichita including, but not necessarily limited to, that documentation described in Section F above.
  3. **Reimbursement Restrictions.** Payments shall be made to Vendor only for items and services provided to support the Agreement purpose when such items and services are specifically authorized by this Agreement. City of Wichita reserves the right to disallow reimbursement for any item or service billed by Vendor if City of Wichita believes that such item or service was not provided to support the Agreement purpose or was not authorized by Agreement.
  4. **Service by Vendor.**
    - (a) Service is to be provided by the Vendor in a prompt and courteous manner. Passengers are to be authorized by the City before Vendor provides eligible rides. Passengers are to be picked up no later than fifteen (15) minutes after the scheduled pick-up time. If a situation dictates, that the fore-mentioned condition may not be met, Vendor must contact City immediately.
    - (b) Vendor must have a back-up system in place to ensure that authorized rides from the City are provided and that no Eligible Passenger is left stranded.
    - (c) Vendor will not collect any charge from an Eligible Passenger.
    - (d) Vendor shall comply with the Federal Drug and Alcohol regulations, as set forth in Appendix C. Pre-employment, post accident, and random tests shall be conducted for any and all safety sensitive Vendor positions that perform duties under the terms of this Agreement.

## H. LICENSES AND PERMITS.

Vendor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out this Agreement. Vendor shall maintain worker's compensation insurance in amounts not less than minimum statutory requirements. Vendor shall notify City of Wichita immediately if any required license, permit, bond or insurance is cancelled, suspended, or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation by City of Wichita, in its discretion.

**I. INSURANCE.**

Vendor shall provide to City of Wichita a Certificate of Insurance evidencing Comprehensive General Liability, Professional Liability, and Comprehensive Automobile Liability coverage as follows:

1.	Bodily Injury	\$500,000	Each Occurrence
2.	Property Damage	\$500,000	Each Occurrence
3.	Personal Injury	\$500,000	Each Person
4.	Automobile Liability (owned, not owned, hired, rented or otherwise):		
	a) Bodily Injury	\$500,000	Each Accident
	b) Property Damage	\$500,000	Each Accident
5.	Professional Liability	\$500,000	
6.	Workers Compensation / Employers Liability	\$100,000	Each Accident

**J. SUBCONTRACTING.**

None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City of Wichita. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any. Notwithstanding the City of Wichita's consent to any subcontractors, vendors shall remain fully responsible for all obligations of this Agreement, including indemnification of City of Wichita for all acts of subcontractors.

**K. TERMINATION OF AGREEMENT.**

1. **Termination for Cause.** If Vendor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Vendor shall violate any of the terms, covenants, conditions or stipulations of this Agreement, City of Wichita shall thereupon have the right to terminate this Agreement by giving written notice to Vendor of such termination, specifying the effective date thereof.

In the event of termination, such information prepared by Vendor to carry out this Agreement, including data, studies, surveys, records, drawings, maps, and reports shall, at the option of the City of Wichita, become the property of the City of Wichita and be immediately turned over to the City of Wichita. Vendor shall be entitled to just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, Vendor shall not be relieved of liability to City of Wichita by virtue of any breach of this Agreement by Vendor and City of Wichita may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damages due City of Wichita from Vendor are determined.

2. **Termination of Agreement on Other Grounds.** This Agreement may be terminated in whole or in part by either party, upon thirty (30) days written notice, stating the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto.

**L. NOTIFICATION.**

Any formal notice required or permitted under this Agreement shall be deemed sufficiently given if in writing and delivered by public or private carrier, personal delivery, sent by registered or certified mail (return receipt requested) or sent by means of telefacsimile or telecopier, to the party whom said notice is to be given. Notices delivered in person or sent via telefacsimile or telecopier shall be deemed to be served effective as of the date the notice is delivered or sent. Notices sent by registered or certified mail (return receipt requested) shall be deemed to be served forty-eight (48) hours after the date said notice is postmarked to the addressee, postage prepaid.

Contractor: City of Wichita – Wichita Transit  
Attn: General Manager  
Address: 777 E. Waterman  
Phone: (316) 352-4824  
Fax: (316) 352-9287

Vendor: ABC Taxi Cab Company  
Attn: Ted Hill  
Address: 400 S. Greenwood  
Phone: (316) 262-7511  
Fax: (316)262-0732

**M. MISCELLANEOUS.**

1. The failure of either party to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any option, right or remedy herein contained, should not be construed as a waiver or relinquishment for the future of such term, provision, option, right or remedy. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by the waiving party.
2. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.
3. In the event that any provision in this Agreement shall be adjudicated invalid under applicable laws, such invalid provision shall automatically be considered reformed and amended so as to conform to all applicable legal requirements, or, if such invalidity cannot be cured by reformation or amendment, the same shall be considered stricken and deleted, but in neither such event or events shall the validity or enforceability of the remaining valid portions hereof be affected thereby.
4. Both parties hereto represent and agree that: (I) they have reviewed all aspects of this Agreement; (ii) they have been given the opportunity to review this Agreement with counsel; and (iii) they have carefully read and fully understand all provisions of this Agreement.

## **APPENDIX B**

### **VENDOR / CITY CONTRACTUAL DUTIES**

#### **GENERAL CONDITIONS.**

##### **A. DEFINITIONS.**

1. **Unit of Service.** One, one-way trip equals one unit of service per Eligible Passenger. A round trip taken by an Eligible Passenger equals two units of service.
2. **Service.** Transportation to and from specific employment or employment related site as authorized by City for Eligible Passengers.
3. **Eligible Passenger.** Residents of the greater Wichita Employment area who are certified and approved as eligible by City of Wichita.

##### **B. VENDOR DUTIES.**

1. Vendor agrees that any funds provided for services under this Agreement will be paid on a fee-for-services basis only.
2. Vendor shall be subject to annual audit in accordance with the provisions set forth in Appendix A.
3. Vendor agrees that its records used in preparation of all reports are subject to review by City to ensure the accuracy and validity of the information reported.
4. Vendor shall promptly provide notice to the City if it is unable to provide the required quantity or quality of services.
5. Vendor agrees that all rides are to be pre-authorized by the City.
6. Vendor shall maintain all applicable records on such forms as designated by the City.
7. Vendor agrees that they will not provide "private" or unauthorized rides to Eligible Passengers.
8. Vendor shall comply with the Federal Drug and Alcohol regulations as set forth in Appendix C. Pre-employment, post accident, and random tests shall be conducted for any and all safety sensitive Vendor positions that perform duties under the terms of this Agreement.
9. Service is to be provided by the Vendor in a prompt and courteous manner. Passengers are to be authorized by the City for eligible rides. Passengers are to be picked up no later than fifteen (15) minutes after the scheduled pick up time. If conditions dictate that this is not possible for a particular trip, Vendor must notify City immediately.
10. Vendor must have a back up system in place to ensure that authorized rides from City are provided and that no Eligible Passenger is left stranded.
11. Vendor will not collect any charge from the Eligible Passenger.
12. Vendor must utilize car seats and booster seats, as per K.S.A. 8-1344, and K.S.A. 8-2501, when transporting minors (14 and under).

##### **C. CITY DUTIES:**

1. Provide all Administrative services necessary to implement the program.

2. Oversee the daily exercise of the program and assure compliance of the regulations as set forth in the entire contractual document.
3. Schedule and coordinate all transportation rides with the appropriate Vendor.
4. Issue payments to Vendor as described in Appendix A, based on authorized trips.

## APPENDIX C

### FEDERAL AND STATE REGULATIONS

#### U. S. FEDERAL

FTA has developed certain Standard Terms and Conditions required by DOT. These contractual provisions required by DOT, as set forth in FTA Circular 4220.1C, dated May 1, 1995, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause the City to be in violation of the FTA terms and conditions.

#### **A. PROJECT IMPLEMENTATION.**

##### **1. Application of Federal, State, and Local Laws and Regulations.**

- (a) Federal laws or laws authorizing Project approval control Project implementation. The Vendor acknowledges that Federal laws, regulations, policies, and related administrative practices applicable to the Project on the date the authorized City official signs the Master Agreement may be modified from time to time. In particular, new Federal laws, regulations, policies, and administrative practices may be promulgated after the date when the Vendor executes the Master Agreement, and might apply to that Master Agreement. The Vendor agrees that the most recent of such Federal requirements will govern the administration of the Project at any particular time, unless FTA issues a written determination otherwise. FTA's written determination may be issued as a Special Condition or Requirement within the Master Agreement or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of this Master Agreement. All standards or limits within this Master Agreement are minimum requirements, unless modified by FTA.
- (b) Except when a Federal statute or regulation preempts State of Kansas, City of Wichita, or territorial law, no provision of the Master Agreement shall require the Vendor to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State of Kansas, City of Wichita, or territorial law. Thus if any provision or compliance with any provision of the Grant Agreement, Cooperative Agreement or this Master Agreement violate State of Kansas, City of Wichita, or territorial law, or would require the Vendor to violate State of Kansas, City of Wichita, or territorial law, the Vendor agrees to notify the City immediately in writing. Should this occur, the City and the Vendor agree to make appropriate arrangements to proceed with or, if necessary, terminate the Project as quickly as possible.

##### **2. Vendor's Responsibility to Federal Requirements.**

- (a) Entities Affected - Only the entities that are signatories to this Master Agreement for the Project are parties to that agreement. Accordingly, the City agrees to take appropriate measures necessary to ensure all Project participants comply with applicable Federal requirements affecting their performance.
- (b) Documents Affected - Applicable provisions of the Federal statutes, regulations, and directives establishing that Federal requirement determine the extent to which a specific Federal requirement affects a Vendor as participant. Accordingly, the Vendor agrees to ensure that they will comply with applicable Federal requirements.

##### **3. No Federal Government Obligations to Third Parties.** The Vendor agrees that, absent either Federal, State of Kansas, or City of Wichita Governments express written consent, the

Governments shall not be subject to any obligations or liabilities to any recipient, or any other person not a party to the Master Agreement in connection with the performance of the Project. Notwithstanding any concurrence provided by the Governments in or approval of any solicitation, or sub-agreement, the Governments continue to have no obligations or liabilities to any party.

4. **Changes in Project Performance (including Disputes, Breaches, Defaults or Litigation).** The Vendor agrees to notify the City immediately of any change in conditions (such as its legal, financial, or technical capacity), or any other event that may significantly affect the Vendors ability to perform the Project in accordance with the terms of the Master Agreement. In addition, the Vendor agrees to notify the City immediately of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Governments interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. The Vendor agrees to inform the City before naming either the City or the Federal Government as a party to litigation for any reason, in any forum.

## **B. CIVIL RIGHTS**

The Vendor agrees to comply with all applicable civil rights statutes, and implementing regulations including, but not limited to the following:

1. **Nondiscrimination in Transit Programs.** The Vendor agrees to comply with the provisions of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
2. **Nondiscrimination - Title VI of the Civil Rights Act.** The Vendor agrees to comply with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, and any implementing requirements FTA may issue.
3. **Equal Employment Opportunity.** The Vendor agrees to comply with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements City and FTA may issue. Those equal employment opportunity (EEO) requirements include, but are not limited to, the following:
  - (a) **General Requirements - The Vendor agrees as follows:**
    - (1) It will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Vendor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Vendor also agrees to comply with any implementing requirements the City and FTA may issue.
    - (2) If the Vendor is required to submit and obtain City approval of its EEO program, that EEO program approved by the City is incorporated by reference and made part of the Master Agreement. Failure by the Vendor to carry out the terms of that EEO program shall be treated as a violation of the Master Agreement. Upon notification to the Vendor of its failure to carry out the approved EEO program, the City may impose such remedies as it considers appropriate, including termination of financial funds in accordance with this

Master Agreement, or other measures that may affect the Vendors eligibility to obtain future financial funds for transportation projects.

4. **Nondiscrimination on the Basis of Sex.** To the extent applicable, the Vendor agrees to comply with Title IX of the Education Amendments of 1972, as amended, 20 U. S.C. § § 1680 et seq., which prohibit discrimination on the basis of sex., and any subsequent Federal requirements.
5. **Nondiscrimination on the Basis of Age.** The Vendor agrees to comply with the applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S. C. § § 61 01 et seq., and implementing regulations, which prohibits discrimination on the basis of age.
6. **Access Requirements for Persons with Disabilities.** The Vendor agrees to comply with the requirements of 49 U. S. C. § 5 3 01 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Vendor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S. C. § § 121 01 et seq., which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:
  - (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
  - (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (c) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
  - (d) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
  - (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
  - (f) U.S. GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
  - (g) U.S. Equal Employment Opportunity Commission, "Regulations to implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
  - (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
  - (i) FTA regulations, "Transportation for Elderly and Handicapped Persons, 49 C.F.R. Part 609; and
  - (j) Any implementing requirements FTA may issue.
7. **Drug or Alcohol Abuse: Confidentiality and Other Civil Rights Protections.** The Vendor agrees to comply with the confidentiality and other civil rights provisions of the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, the Comprehensive Alcohol

Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and the Public Health Service Act of 1912, 42 U.S. C. § § 290dd-3 and 290ee-3, including any amendments to these acts.

8. **Other Nondiscrimination Statutes.** The Vendor agrees to comply with any other nondiscrimination statute(s) that may apply to the Project.

**C. ENERGY CONSERVATION.**

The Vendor agrees to comply with the mandatory energy efficiency standards and policies within the applicable energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq.

**D. SUBSTANCE ABUSE.**

1. **Drug Abuse.**

- (a) The Vendor agrees to comply with U.S. DOT regulations, "Drug-Free Workplace Requirements(Grants)," 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. §§ 702 et seq.
- (b) To the extent applicable, the Vendor agrees to comply with FTA regulations, "Prevention of Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 653, and any guidance on the drug abuse provisions of 49 U.S.C. § 5331 that FTA or U.S. DOT may issue.

2. **Alcohol Abuse.** To the extent applicable, the Vendor agrees to comply with FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," 49 C.F.R. Part 654, and any guidance on the alcohol abuse provisions of 49 U.S.C. § 5331 that FTA or U.S. DOT may issue.

**STATE OF KANSAS**

**A. AGREEMENT WITH KANSAS LAW.**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

**B. DISCLAIMER OF LIABILITY.**

Neither the State of Kansas nor any agency thereof, nor the City, shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

**C. RESPONSIBILITY FOR TAXES.**

Neither the State of Kansas, nor the City, shall be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

**City of Wichita  
City Council Meeting  
May 20, 2008**

**To:** Mayor and City Council  
**Subject:** Access to Jobs Vendor Agreement with ABC Taxi Cab Company  
**Initiated By:** Wichita Transit  
**Agenda:** Consent Agenda

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**Recommendation:** Approve the Access to Jobs Vendor Agreement with ABC Taxi Cab Company.

**Background:** The Access to Jobs program provides rides to and from work for low-income workers. Since the start of the program in October, 2000, Access to Jobs has provided over 655,894 rides. By entering into a vendor agreement with ABC Taxi Cab Company, the program can provide over 6,000 more rides a year to low-income clients in a very cost-effective manner.

**Analysis:** Part of the Access to Jobs grant from the Federal Transit Administration is to provide half the cost of the rides for low-income clients when they are trying to enter the work force. The other half of the cost is borne by Social and Rehabilitation Services, COMCARE, the Mental Health Association, and the Breakthrough Club.

**Financial Consideration:** The Access to Jobs rides will be purchased with grants from FTA (50%) and a (50%) local match from the four agencies listed above. No city funds will be involved in purchasing rides from ABC Taxi Cab Company.

**Goal Impact:** To ensure an efficient infrastructure by maintaining and optimizing public facilities and assets.

**Legal Consideration:** The Law Department has reviewed and approved the Vendor Agreement as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the Vendor Agreement and authorize the necessary signatures.

**Attachment:** Access to Jobs Vendor Agreement (ABC Taxi Cab Company)

# Eldora Parcel



	Property Parcels
	Roads
	State Highway
	US Federal Highway
	Interstate
	KTA
	Arterial
	Collector
	Minor
	Ramp
	Railroads
	Quarter Section
	Waterways
	Streams
	Parks
	Airports
	SDERASTER.S- DEDATA.ORTH- O1FT
	SDERASTER.S- DEDATA.ORTH- O
	City Limits
	Andale
	Bel Aire
	Bentley
	Cheney
	Clearwater
	Colwich
	Derby
	Eastborough
	Garden Plain
	Goddard
	Haysville
	Kechi
	Maize
	Mount Hope
	Mulvane
	Park City

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



## QUIT CLAIM DEED

THIS INDENTURE, Made this \_\_\_\_ day of \_\_\_\_\_, 2008, between The City of Wichita, a Municipal Corporation, party of the first part, and Universal Motor Fuels, Inc., party of the second part.

WITNESSETH:

That said party of the first part, in consideration of the sum of ONE DOLLAR, the receipt of which is hereby acknowledged, does by these presents, remise, release and quit claim, unto said parties of the second part, their heirs and assigns, all the following described real estate situated in the City of Wichita, County of Sedgwick and State of Kansas, to-wit:

A tract of land located in Lots 7, 8, 9, 10, 11, and 12, Block 3, Santa Fe Addition to the City of Wichita described as follows:

Beginning at the NW Corner of Lot 7; thence east, 70 feet along the north line of Lot 7 to a point 55 feet west of the NE Corner of Lot 7; thence south, 61.5 feet parallel to the east line of Lots 7, 8 and 9 to a point 55 feet west of the east line and 13.5 feet north of the south line of Lot 9; thence Southwest, to a point on the west line of Lot 12 located 18.5 north of the SW Corner of Lot 12; thence north, 131.5 feet along the west lines of Lot 12, 11, 10, 9, 8, and 7 to the NW Corner of Lot 7 and Point of Beginning.

TOGETHER WITH:

The east one-half of vacated (Topeka Street) now Eldora Street, adjacent to Lots 7, 8, 9, 10, 11 and the north 6.5 feet of Lot 12.

Grantee, heirs, agents, successors and assigns accept and agree to any and all existing covenants and restrictions of record and any future use of the proeprty as described in Exhibit A for the following uses shall be prohibited:

- A. Adult Book and Video Store
- B. Community Correctional Facilities
- C. Half-way Houses
- D. Drug or Alcohol Rehabilitation Facilities
- E. New or Used Car Sales Lot
- F. Multi-game, casino-style Gambling Facilities
- G. Commercial Billboards

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, forever.

IN WITNESS WHEREOF, the said party of the first part had hereunto set its hand the day and year first above written.

**THE CITY OF WICHITA:**

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

State of KANSAS            )  
County of SEDGWICK    )ss:

This instrument was acknowledged, before me this \_\_\_\_\_ day of \_\_\_\_\_ 2007, by Carl Brewer, Mayor, City of Wichita and Karen Sublett, City Clerk, City of Wichita.

**SEAL**

\_\_\_\_\_  
**Notary Public**

**My Commission Expires:** \_\_\_\_\_

**CITY OF WICHITA**  
**City Council Meeting**  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Dedication of Parcel near Washington and Dewey (District III)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the dedication.

**Background:** In 2005, a request was received to vacate Eldora from Orme to Dewey. A condition of the dedication was that 40 feet of right of way for Mosley Street north of Kellogg be dedicated by the owner adjacent to Eldora on the west. After the vacation, a 3,750 square foot City-owned parcel on the east side of Eldora would be landlocked. The property owner agreed to dedicate the needed Mosley right of way in return for the parcel of landlocked City property.

**Analysis:** The City parcel is access controlled to Washington. The parcels to the north and south are privately owned. With the vacation of Eldora, there is no remaining access to the parcel. KDOT has reviewed and approved the transfer of the parcel. Upon transfer, the owner will incorporate the parcel into his existing parking.

**Financial Considerations:** After the transfer, the City will no longer be responsible for maintenance. In addition, the property will return to the tax rolls.

**Goal Impact:** This transaction supports efficient infrastructure by minimizing the amount of underutilized property owned by the City.

**Legal Considerations:** The Law Department has approved the deed as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) approve the transfer and 2) Authorize the necessary signatures.

**Attachments:** Aerial map and deed.

**Memorandum of Understanding  
Between  
McPherson County Conservation District  
And  
The City of Wichita**

*Purpose:* The implementation of certain practices in the Little Arkansas River watershed above the city of Wichita's water intake points has positive impacts on the quality of the water for the City's groundwater recharge project. In 2006 & 2007, water quality monitoring data has shown significant reductions in concentrations and annual loadings of atrazine in those streams of watersheds where Best Management Practices (BMP's) were implemented. Weather conditions have been extreme the past two years. Extremely dry in 2006 with few rainfall events causing surface runoff and extremely wet in 2007 with several flooding events. Therefore reductions in atrazine concentrations associated with agricultural BMP's has been difficult to predict and model. A third year (2008) of implementing practices and measuring affects on water quality is needed to more accurately predict results from these actions. We have seen tremendous interest and participation in this program. More than 90% of those contacted have signed up to implement atrazine BMP's. We expect even greater participation and results with increased funds for year 3(FY 2008) of this project. It is the intent of this Memorandum of Understanding (MOU) to provide an incentive to producers within the watershed to install these beneficial practice and to provide up to 100% cost share reimbursement, within the county average costs, to producers who install beneficial practices as recommended by K-State Research and Extension (KSRE) or Natural Resources Conservation Service (NRCS), and to establish the procedure by which payments to those producers will be processed. Under the Little Arkansas Watershed Program (LAWP), the producer can apply for funding to implement or install eligible improvements approved by the Little Arkansas Watershed Advisory (LAWA). Upon approval and completion of the practices, the producer will receive reimbursement amounting to 50% of the county average cost, or actual cost, whichever is less, for implementing those improvements, from the McPherson County Conservation District utilizing KDHE (EPA 319 funds). The intention of this MOU is to facilitate a means whereby the producer could receive up to 100% reimbursement by having the city of Wichita provide up to a 50% cost share payment for the improvements. For other innovative practices recommended by KSRE or NRCS, that are not currently covered under existing programs, the City of Wichita will provide cost reimbursement up to 50%, or an incentive payment based on KSRE and SCC experience, as recommended and approved by the LAWA. The remaining costs would be the responsibility of the producer. The LAWA will review applications for cost reimbursement and will make decisions for approval based on available payments and the impact of implementing specific practices. This MOU will cover cost share practices installed under the FY 2008 program year beginning September 1, 2007 through August 31, 2008.

*McPherson County Conservation District Responsibilities:*

The District will:

1. Maintain official records relative to farms and, through the LAWP leadership team, determine the producer's eligibility to participate in the LAWP and other official records.

2. Be responsible for maintaining County Average Costs. County Average Costs will be the basis for determining if the practice(s) instituted by the producer were done in a cost effective manner. Expenses incurred by the producer above the County Average Cost will not be eligible for reimbursement.
3. Provide to the City a breakdown of the units (acres, lineal feet, etc.) performed which will include a copy of the CS4 form showing:
  - a. Best Management Practice (BMP) applied.
  - b. Total of the units applied or completed.
  - c. The County Conservation District County Average Cost for the BMP.
  - d. Dollar amount eligible for cost-share.
  - e. Dollar amount paid by cost-share fund.
4. Administer the cost share amount to the producer for KDHE (EPA 319) LAWP funds.
  - a. The total amount of LAWP funds available varies yearly with \$60,000 available for FY 2008. This consists of equal amounts of EPA 319 funds (\$30,000) and Wichita funds (\$30,000).
  - b. The maximum cost share to a single producer in a fiscal year will be reviewed annually.
5. Provide the City of Wichita the name, address and Social Security number of the producer completing the demonstration, the type of practice implemented, and the legal description of the demonstration site. Producers will also provide a completed Vendor Registration Form to the City.
6. Provide an accounting of the program to all County Conservation Districts in the Little Arkansas Watershed.

*City of Wichita Responsibilities:*

The City will:

1. Maintain official records relative to the Little Arkansas Watershed Program (LAWP).
2. Will process payments and send them to the producer after a request for payment is received from the McPherson County Conservation District.
3. Provide notification to the McPherson County Conservation District of payments as soon as possible within workload requirements.
4. Provide funding in the amount up to \$30,000 to the Little Arkansas Watershed Program (LAWP) for FY 2008. Funding will be reviewed annually.

Both Parties:

1. This agreement can be modified with written consent of both parties.
2. This agreement can be terminated with 60 days written notice of either party.

*Paul D. [unclear]*

McPherson County Conservation District

City of Wichita

3-6-08

Date

Date

Approve as to form:

*Gary E. Rebenstorf*  
\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

**City of Wichita**  
**City Council Meeting**  
May 20, 2008

**TO:** Mayor and City Council

**SUBJECT:** Watershed Protection Plan - Memorandum of Understanding

**INITIATED BY:** Water Utilities

**AGENDA:** Consent

---

**Recommendation:** Approve the Memorandum of Understanding with the McPherson County Conservation District.

**Background:** On August 24, 1993, the City Council authorized Staff to assist in submitting a request for a grant with the U.S. Environmental Protection Agency for watershed improvements above Cheney Reservoir. As part of that action, City Council approved the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices in the watershed.

On October 3, 2000, City Council approved and instructed Staff to begin implementation of the Concept Design Plan for the Integrated Local Water Supply Plan. The plan identified cost-effective water resources that would be adequate to meet Wichita's water supply needs to the year 2050.

On August 2, 2005, City Council approved a Memorandum of Understanding (MOU) with the McPherson County Conservation District to assist in funding Best Management Practices (BMPs) in the Little Arkansas River watershed to reduce atrazine in the river. Subsequent MOUs have been approved in 2006 and 2007. The Little Arkansas Watershed Advisory has been created under the McPherson County Conservation District to review and approve BMPs in the watershed. A monitoring program, under Kansas State University Research and Extension, is being used to verify the effectiveness of the BMPs.

**Analysis:** As part of the Integrated Local Water Supply Plan (ILWS) Plan, the Little Arkansas River will become an important component of the City's water supply. It will be the source of water for the Equus Beds Aquifer Storage and Recovery project and the source of water used for the expanded local wellfield. Because of its growing importance as a water supply, efforts have already begun to identify water quality problems in the river and attendant potential solutions.

A task force composed of watershed stakeholders and several governmental agencies completed a Watershed Restoration and Protection Strategy for the Little Arkansas River. The Watershed Restoration and Protection Strategy (WRAPS) report determined the watershed covers 1,407 square miles, with 208 public water suppliers currently drawing water from the river or its alluvium. While the report identifies several pollutants of concern, atrazine is the greatest concern. Atrazine is a relatively inexpensive and effective herbicide that is widely used in corn and sorghum production. The report estimates that atrazine is used on approximately 300,000 acres of cropland in the watershed, amounting to about one-third of the land.

The current drinking water standard for atrazine is three parts-per-billion (3ppb). Unfortunately, water sampling has found levels over 40 parts-per-billion (40ppb) at times. To recharge water from the river

into the Equus Beds Aquifer, the water quality must meet drinking water standards so excess atrazine must be removed. Reducing or eliminating atrazine in the river will result in a significant reduction in cost to treat the water, prior to using it to recharge the aquifer. The WRAPS report recommended a variety of BMPs to reduce atrazine, and during the first year, a reduction of 40 percent was obtained where BMPs were implemented.

The intent of this MOU is to provide an incentive to producers within the watershed to install BMPs and to provide up to 100 percent cost-share reimbursement. Producers would be eligible for up to 100 percent reimbursement for approved projects with the McPherson County Conservation District. McPherson County, using the EPA grant administered through KDHE, would provide 50 percent of the funds and the City another 50 percent. For innovative practices not currently covered under the state's program, the City would reimburse up to 50 percent of the cost of the improvement, and the remaining costs would be the responsibility of the producer.

A number of other partners have agreed to assist in this effort. The Kansas Department of Health and Environment has agreed to commit 319 Grant funds for the educational efforts, demonstrations and some monitoring; Kansas State University Research and Extension has agreed to assist with water quality monitoring and analysis, BMP implementation and delivery of educational programs; and the Natural Resources Conservation Service has agreed to help identify sub-watersheds to study and to assist with BMP implementation,.

**Financial Considerations:** This will be a voluntary program, and the maximum City's share of the costs under the MOU will not exceed \$30,000 in fiscal year 2008. Funds are available in CIP W-549, Water Supply Projects.

**Legal Considerations:** The Law Department has approved the Memorandum of Understanding as to form.

**Recommendations/Actions:** Approve the Memorandum of Understanding and authorize the necessary signatures.

**Attachments:** Memorandum of Understanding with McPherson County Conservation District

City of Wichita  
City Council Meeting  
May 20, 2008

**To:** Mayor and City Council  
**Subject:** Budget Increase – Transit Operating Budget  
**Initiated By:** Wichita Transit  
**Agenda:** Consent

---

**Recommendation:** Approve budget increase in an amount not to exceed \$210,000 for diesel fuel from the Transit Fund.

**Background:** Wichita Transit Federal Transit Administration (FTA) grant funding excludes operating expenditures, such as diesel fuel to operate the bus fleet. A Kansas Department of Transportation (KDOT) grant for \$450,000 pays for fuel, but is unavailable until the State of Kansas Fiscal Year 2009 commences on July 1, 2008.

The 2008 Adopted Budget for Transit Operations diesel fuel is \$474,420. As presented in workshop in April, diesel fuel costs have been escalating. The most recent delivery of fuel cost \$3.84 per gallon. Because the budget, built in 2007, was based on a cost of \$3.25 per gallon, Transit Operations faces a shortfall. Due to the volume of fuel Wichita Transit purchases, a 25¢ increase in fuel per gallon translates to a \$100,000 increase in expenditures. Today, Wichita Transit anticipates a \$210,000 shortfall, to purchase seven loads of fuel at a cost of \$30,000 each through June 30, 2008.

**Analysis:** Existing fund balances will allow a transfer of \$210,000 to fund fuel purchases.

**Financial Considerations:** Funds for the transfer are available in the Transit Fund.

**Goal Impact:** To ensure an efficient infrastructure by maintaining and optimizing public facilities and assets.

**Legal Considerations:** Because the Transit Fund is not certified, the operating budget can be increased by City Council action without recertifying the budget with the State of Kansas.

**Recommendations/Actions:** Approve an increase to the 2008 Adopted Transit Fund expenditure budget in an amount not to exceed \$210,000.

**AMENDMENT NO. 1  
TO  
BANKING SERVICES AGREEMENT**

THIS AMENDMENT NO. 1 to the AGREEMENT, made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2008, by and between the CITY OF WICHITA, KANSAS (hereinafter the "City") and INTRUST BANK, N.A. (Intrust Bank).

WHEREAS, the City and Intrust Bank are parties to original Agreement, dated January 7, 2003, under Formal Proposal 1999-39 in which Intrust Bank provides necessary banking services, and

WHEREAS, said original Agreement will expire by its terms on May 31, 2008, and the parties wish to extend the same in order to permit the City ample time to solicit, receive and evaluate proposals for the provision of said services in the future.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, the parties agree as follows:

1. The original Agreement is hereby extended for the period of June 1, 2008 through December 1, 2008. All provisions of the original Agreement other than the provisions for termination as of May 31, 2008, shall remain as originally set out and in full force and effect through December 1, 2008.
2. In the event that the extension provided for above is not sufficient to permit the City to solicit, receive and evaluate proposals for banking services, the parties agree that the Agreement may be further extended upon mutual consent of the City and Intrust Bank.

IN WITNESS WHEREOF, by the signatures affixed below, the parties have set their hands and seals the day and year first above written.

CITY OF WICHITA, KANSAS

INTRUST BANK, N.A.

By: \_\_\_\_\_

Carl Brewer, Mayor



Signature

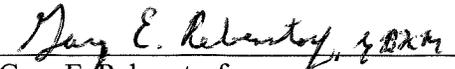
SVP

Title (President or Corporate Officer)

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Gary E. Rebenstorf

Director of Law

**City of Wichita  
City Council Meeting  
May 20, 2008**

**TO:** Mayor and City Council  
**SUBJECT:** Amendment to Banking Services Agreement  
**INITIATED BY:** Department of Finance  
**AGENDA:** Consent

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**Recommendation:** Approve the amendment to the Agreement.

**Background:** In January 2003, the City Council approved the transition of banking services to Intrust Bank, N.A. and authorized the preparation, execution and delivery of agreements in connection therewith. The term of the original banking services agreement was from June 1, 2003 through May 30, 2004, with options to renew under the same terms and conditions for four (4) successive one (1) year terms by mutual agreement of the parties.

**Analysis:** The City has issued a Request for Proposal for banking services and is in the process of receiving and evaluating responses, conducting interviews and making a provider selection. Following selection of a provider, terms of related contracts and agreements shall be finalized and submitted to the governing body for approval. To allow sufficient time for the transition of banking services and to finalize the terms of a new agreement, a 180-day contract extension with Intrust Bank, N.A. is necessary.

**Goal Impact:** This action impacts the Internal Perspective and allows continued banking services and efficient delivery of Treasury services to both internal and external customers. Also, the City's practice of going through a periodic Request for Proposal process serves to reduce/avoid costs, another indicator of the Internal Perspective.

**Financial Considerations:** There are no costs involved in with this contract amendment.

**Legal Considerations:** The amendment Agreement has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the amendment Agreement for banking services and authorize the Mayor to sign.

**Attachment:** Amendment No. 1 to Banking Services Agreement

U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement

Page 1 of 2  
Customer #: KS005  
Agreement #: 08C4KS002100000  
Project #: 8595A0U  
TIN #: 48-6000653  
Fixed Cost Agreement  Yes  No

FOR  
STREAMGAGING

THIS AGREEMENT is entered into as of the 1ST day of MAY, 2008, by the U.S. GEOLOGICAL SURVEY UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the CITY OF WICHITA KANSAS, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation INSTALLATION AND OPERATION OF STREAMFLOW-GAGING STATION ON THE ARKANSAS RIVER SOUTH OF BENTLEY, KANSAS, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.
2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) includes In-Kind Services in the amount of \$0.

(a) \$0 by the party of the first part during the period  
MAY 1, 2008 to APRIL 30, 2010

(b) \$88,600 by the party of the second part during the period  
MAY 1, 2008 to APRIL 30, 2010

(c) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(d) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.
4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.
5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.
6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.
7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

Form 9-1366  
continued

U.S. Department of the Interior  
U.S. Geological Survey  
Joint Funding Agreement

Customer #: KS066  
Agreement #: 08C4KS00210000  
Project #: 8595A0U  
TIN #: 48-6C00653

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties.
9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered **QUARTERLY**. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983).

U.S. Geological Survey  
United States  
Department of the Interior

City of Wichita, Kansas  
Water and Sewer Division

USGS Point of Contact

Customer Point of Contact

Name: Andy Ziegler  
Address: 4821 Quail Crest Place  
Lawrence, KS 66049  
  
Telephone: 785-832-3539  
Email: aziegler@usgs.gov

Name: Jerry Blain  
Address: 455 N. Main St.  
8th Floor  
Wichita, KS 67202  
  
Telephone: 316-268-4578  
Email: jblain@wichita.gov

Signatures

Signatures

By \_\_\_\_\_ Date \_\_\_\_\_  
Name: Walter R. Aucott  
Title: Director, KS WSC

By \_\_\_\_\_ Date \_\_\_\_\_  
Name:  
Title:

Approved as to form:



City Of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council  
**SUBJECT:** Joint Funding Agreement - U.S. Geological Survey  
**INITIATED BY:** Water Utilities  
**AGENDA:** Consent

---

**Recommendation:** Approve the Joint Funding Agreement with the U.S. Geological Survey for a streamflow gage on the Arkansas River near Bentley.

**Background:** The Bentley Wellfield is adjacent to the Arkansas River south of Bentley and previously consisted of six (6) wells that were drilled in 1956 by the City. The City of Wichita's Integrated Local Water Supply Plan includes reactivating the Bentley Wellfield with six (6) new wells that could provide an additional 10 MGD on days of peak demand. The quality of the water is poor, but on days of peak demand it can be diluted so that no additional treatment will be required.

**Analysis:** The Division of Water Resources has issued appropriations for six (6) wells at this site, but the conditions of the appropriations require real-time measurement of the streamflow in the Arkansas River at the Bentley Road Bridge. The wells can only be operated when the flows at this location are greater than, or equal to 165 cubic feet per second. This requirement can be fulfilled by a USGS streamflow gage and associated data acquisition instrumentation.

The USGS will install and operate a streamflow gage until April of 2010. At that time, all data collected will be analyzed and compiled into a short open-file report. This will be adequate to confirm a correlation between the streamflow data at this new gage and the existing streamflow gage located near Maize. If a correlation can be confirmed, the City can petition the state to remove the Bentley gage and have the Maize gage dictate the operation of the Bentley Wellfield.

**Financial Considerations:** The cost for instrumentation, testing, operation and preparation of the report is \$88,600. Capital Improvement Program, Water Supply Plan Phase III (CIP W-549), has adequate funds for the cost of the program.

**Goal Impact:** The project will help ensure efficient infrastructure by assuring adequate water supplies now and in the future, and is a critical component of the City's infrastructure.

**Legal Considerations:** The Joint Funding agreement has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council: 1) approve the expenditures; 2) authorize the Joint Funding Agreement; and 3) authorize the necessary signatures.

**Attachments:** Joint Funding Agreement with USGS

## BUDGET FOR PROPOSED USES

1. Administrative Expenses – Up to \$58,800 (20%)

The City of Wichita may contract up to \$58,800 (20%) with a local entity for professional services necessary to implement the project (e.g. architectural, engineering, surveying, etc.)

No Economic Development Initiative (EDI) funds will be used for ongoing operating costs associated with this initiative.

2. Acquisition, Construction, Rehabilitation Expenses – At least \$235,200 (80%)

The City of Wichita proposes to use the remainder of the grant to redevelop (acquire, construct and/or rehabilitate) the Dunbar Theater into a community-based visual and performing arts center. The cost for acquisition and rehabilitation of the facility will also be financed through other resources.

No Economic Development Initiative (EDI) funds will be used for ongoing operating costs associated with this initiative.

## **Dunbar Theater Redevelopment Project Project Narrative**

### **Project Purpose**

Economic Development Initiative funding will be utilized to assist in the redevelopment of the Dunbar Theater into a community-based visual and performing arts center—bringing this area back to life. This neighborhood theater, constructed in 1941, once served as the focal point of a commercial and entertainment hub for predominately the African-Americans community in the McAdams Neighborhood, as well as, other surrounding neighborhoods northeast of downtown Wichita. The redevelopment of the Dunbar Theater would act as a catalyst for cultural activity, would likely fill a gap in the market, and could serve as the centerpiece for the McAdams Neighborhood revitalization efforts--promoting the revitalization of surrounding properties.

### **Background**

The goal to redevelop the historic Dunbar Theater as a visual and performing arts center was identified within the *McAdams Neighborhood Revitalization Plan*, which was adopted as an amendment of *The Wichita-Sedgwick County Comprehensive Plan* in May of 2003. By 2006, the City of Wichita commissioned a consortium team of Hardlines Design Company, AMS Research and Planning, and Professional Engineering Consultants to study Dunbar Theater's redevelopment potential.

The feasibility study included an initial architectural building evaluation, a market study, and a conceptual plan for the facility that addresses both the immediate needs of the facility and those of the interested neighborhood groups, as well as, the needs of the prospective rental groups. From these findings, the feasibility stated that there is significant interest for the redevelopment of Dunbar Theater to serve primarily, residents of the neighborhood and the city's underserved (largely African American) population.

The study found that with a modest addition, the Dunbar Theater can be easily renovated as an intimate performing arts center with party/reception hall capability. Properly renovated, it should be able to support performances ranging from musical recitals to moderately scaled musical productions. Given its size, it would also be well suited for comedic arts, dance, and/or small jazz or orchestral performances. Equipped with a projection screen, the Dunbar would be available for lectures, meetings, and movie presentations. It could also be a rehearsal hall for both neighborhood groups and for the wider Wichita performing arts community that lacks similarly sized smaller venues. The feasibility study recommendations serve as an initial basis for the redevelopment of the Dunbar Theater, but plans are subject to modifications as more detailed analysis is conducted.

### **Recent Progress**

Power CDC has acquired the Dunbar Theater property and has begun fundraising efforts. On April 10, 2008, the City of Wichita was officially notified that an Economic Development Initiative (EDI) grant for the Dunbar Theater Redevelopment Project was included in the Consolidated Appropriations Act of 2008 (PL 110-161), for funding in the amount of \$294,000. In addition, Power CDC has raised more than \$10,000 in community donations and has learned that the project qualifies for both state and federal historic rehabilitation tax credits.

The Dunbar Theater has been listed in the Register of Historic Kansas Places, which qualifies the property for certain state-funded financial incentives. In addition, the Kansas Historic Sites Board of Review has approved the nomination of the Dunbar Theater to the National Register of Historic Places.

The nomination has been forwarded to the office of the Keeper of the National Register in Washington D.C. where if they concur with the findings of the Kansas Historic Sites Board of Review, the property will be granted inclusion in the National Register of Historic Places.

**EDI Funding**

Up to \$58,800 (20%) of the EDI funds may be used for planning, management and administrative expenses such as professional services necessary to implement the project (e.g.. architectural, engineering, surveying, etc.). The balance of the EDI grant funds, of at least \$235,200 (80%), will be used for acquisition, construction and rehabilitation of the Dunbar Theater. No EDI grant funds will be used for program operations or operating costs of the facility.

# DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> :  <b>Congressional District, if known:</b>	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   <b>Congressional District, if known:</b>	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, <i>if applicable</i> : _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**Application for Federal Assistance SF-424**

Version 02

\* 1. Type of Submission:

- Preapplication
- Application
- Changed/Corrected Application

\* 2. Type of Application:

- New
- Continuation
- Revision

\* If Revision, select appropriate letter(s):

\* Other (Specify)

\* 3. Date Received:

Completed by Grants.gov upon submission.

4. Applicant Identifier:

5a. Federal Entity Identifier:

\* 5b. Federal Award Identifier:

**State Use Only:**

6. Date Received by State:

7. State Application Identifier:

**8. APPLICANT INFORMATION:**

\* a. Legal Name:

\* b. Employer/Taxpayer Identification Number (EIN/TIN):

\* c. Organizational DUNS:

**d. Address:**

\* Street1:

Street2:

\* City:

County:

\* State:

Province:

\* Country:

\* Zip / Postal Code:

**e. Organizational Unit:**

Department Name:

Division Name:

**f. Name and contact information of person to be contacted on matters involving this application:**

Prefix:

\* First Name:

Middle Name:

\* Last Name:

Suffix:

Title:

Organizational Affiliation:

\* Telephone Number:

Fax Number:

\* Email:

**Application for Federal Assistance SF-424**

Version 02

**9. Type of Applicant 1: Select Applicant Type:**

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

**\* 10. Name of Federal Agency:**

**11. Catalog of Federal Domestic Assistance Number:**

CFDA Title:

**\* 12. Funding Opportunity Number:**

\* Title:

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

**\* 15. Descriptive Title of Applicant's Project:**

Attach supporting documents as specified in agency instructions.

**Application for Federal Assistance SF-424**

Version 02

**16. Congressional Districts Of:**

\* a. Applicant

\* b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**

\* a. Start Date:

\* b. End Date:

**18. Estimated Funding (\$):**

\* a. Federal

\* b. Applicant

\* c. State

\* d. Local

\* e. Other

\* f. Program Income

\* g. TOTAL

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

a. This application was made available to the State under the Executive Order 12372 Process for review on .

b. Program is subject to E.O. 12372 but has not been selected by the State for review.

c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)**

Yes

No

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

**\*\* I AGREE**

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:

\* First Name:

Middle Name:

\* Last Name:

Suffix:

\* Title:

\* Telephone Number:  Fax Number:

\* Email:

Signature of Authorized Representative:

\* Date Signed:

**Application for Federal Assistance SF-424**

Version 02

**\* Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Application for Economic Development Initiative Funds (District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** City Council (Consent)

---

**Recommendation:** Approve the grant application.

**Background:** The *McAdams Neighborhood Revitalization Plan* was adopted as an amendment of *The Wichita-Sedgwick County Comprehensive Plan* in May 2003. Goal 4 of the Plan states, “Redevelop the historic Dunbar Theater area as a visual and performing arts center, and promote the development of community outreach facilities at the Phyllis Wheatley Center.” In 2006, a *Dunbar Theater Redevelopment Feasibility Study Report* was developed and presented to approximately 30 neighborhood leaders, the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Wichita City Council.

The feasibility study recommendations serve as an initial basis for the redevelopment of the Dunbar Theater, but plans are subject to modifications as more detailed analysis is conducted. Implementation of the study’s recommendations will depend upon neighborhood leadership’s ability to garner support from the greater community and to raise the necessary resources. Power CDC has acquired the Dunbar Theater property and has begun fundraising efforts.

The City was officially notified on, April 10, 2008, that an Economic Development Initiative (EDI) grant for Wichita in the amount of \$294,000, was included in the Consolidated Appropriations Act of 2008 (PL 110-161). The project description with this notification states that the award is made “to the City of Wichita, KS for the redevelopment of Dunbar Theater.” In order to access funds from this grant, it is necessary for the City to submit a grant application for funding.

**Analysis:** City staff has prepared an application that is consistent with instructions provided for these funds. The City’s application requests that no more than 20 percent of the funds be used for planning, management and administrative expenses and that at least 80 percent of the funds be solely used for construction or other “hard cost” activities as specified in the authorization for the use of the funds. The grant application is attached.

**Financial Considerations:** Up to \$58,800 (20%) may be utilized for professional services necessary to implement the project (e.g., architectural, engineering, surveying, etc.). The balance of the grant funds, of at least \$235,200 (80%), will be used for acquisition, construction and rehabilitation of the Dunbar Theater. No EDI grant funds can be used for program operations or operating costs of the facility. No City funds have been budgeted for the redevelopment of the Dunbar Theater, other than what was previously expended for the feasibility study.

**Goal Impact:** Approving the grant application for purposes of redeveloping of the Dunbar Theater addresses the goal to support a dynamic core area and vibrant neighborhoods. The Dunbar Theater Feasibility Study Report indicates that the redevelopment of the Dunbar Theater is feasible and is a critical component of the redevelopment of the McAdams Neighborhood.

**Legal Considerations:** The Consolidated Appropriations Act of 2008 was signed into law by President Bush on December 26, 2007, and provides the Department of Housing and Urban Development with Economic Development Initiative (EDI) funds for certain projects. This project was included.

**Recommendations/Actions:** It is recommended that the City Council approve the HUD Economic Development Initiative (EDI) grant application and authorize the necessary signatures.

MINNESOTA AVE

S MINNESOTA DR

I-135

135

ST

135

S ASH ST

S MADISON AVE

S SCHWEITER DR

Grove Street

S GROVE ST

Bayley Street

POPULAR ST

Morris Street

Lincoln Street

S GREEN ST

S ESTELLE AVE

EMORRIS ST

S GEORGE WASHINGTON DR  
S GEORGE WASHINGTON BLVD  
S GEORGE WASHINGTON DR

ERIVERA ST





K-42 Southwest Boulevard

W CESSNA DR

S HOOPER ST

235

S YOUNG ST

W SOUTHWEST DR  
W SOUTHWEST BLVD

W 29TH CIR S

W 29TH



**CAPITAL IMPROVEMENT  
PROJECT AUTHORIZATION  
CITY OF WICHITA**

- USE:  
To Initiate Project  X  
To Revise Project
1. Prepare in triplicate
  2. Send original & 2 copies to budget.
  3. City Manager to sign all copies.
  4. File original w/ initiating resolution in City Clerk.
  5. Return 2nd copy to initiating department.
  6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 4/29/2008	4. Project Description & Location 2008 Street Rehabilitation Program	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date	
MS-200431				
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised	
As Required	As Required		12A.	
ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	\$400,000		\$92,500	\$492,500
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals	\$400,000		\$92,500	\$492,500
Total CIP Amount Budgeted				
Total Prelim. Estimate				472-84725

Platting Required	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Lot Split	<input type="checkbox"/>				
Petition	<input type="checkbox"/>				
Ordered by WCC	<input checked="" type="checkbox"/>				

Remarks:

13. Recommendation: Approve the Project and Ordinance

Division Head <i>Gary Jans</i> for Jim Arnouk	Department Head <i>Robert M. Con...</i>	Budget Officer <i>[Signature]</i>	City Manager
Date	Date	Date	Date

City of Wichita  
City Council Meeting  
May 20, 2008

**TO:** Mayor and City Council Members  
**SUBJECT:** 2008 Street Rehabilitation Program (Districts I & IV)  
**INITIATED BY:** Department of Public Works  
**AGENDA:** Consent

---

**Recommendation:** Approve the project.

**Background:** The 2007-2016 Capital Improvement Program (CIP) includes ongoing funding to rehabilitate major streets. This funding is separate from the Contract Maintenance Program that is funded by the Public Works operation budget. Grove and Lincoln were selected for this program as they are two of the most severely deteriorated arterial concrete streets in town and are, at best, difficult to maintain. In this case, rehabilitation will consist of the removal and replacement of deteriorated concrete slabs as necessary. K-42 was selected as it is a connecting link state highway and is in need of a mill and overlay at this time.

**Analysis:** The 2008 funds will reconstruct Grove, between Bayley and Lincoln (includes the Grove/Lincoln intersection); Grove, between Lincoln and Morris; Lincoln, between Grove and the Wichita Drainage Canal; and K-42 Highway (Southwest Boulevard) between Hoover and the I-235 Freeway.

**Financial Considerations:** The total project cost will be \$492,500. The CIP budget will contribute \$400,000 and KDOT will contribute \$92,500 for the connecting link work.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing needed street maintenance.

**Legal Considerations:** The Law Department has approved the authorizing Ordinance as to legal form.

**Recommendation/Action:** It is recommended that the City Council approve the project and place the Ordinance on First Reading.

**Attachments:** Map, CIP Sheet and Ordinance.

First Published in the Wichita Eagle

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE DECLARING **GROVE, FROM BAYLEY TO LINCOLN; GROVE, FROM LINCOLN TO MORRIS; LINCOLN, FROM GROVE TO THE BRIDGE OVER THE WICHITA DRAINAGE CANAL AND K-42 HIGHWAY FROM HOOVER TO THE I-235 FREEWAY (2008 STREET REHABILITATION PROGRAM) 472-84725** TO BE MAIN TRAFFICWAYS WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAYS; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That **Grove, from Bayley to Lincoln; Grove, from Lincoln to Morris; Lincoln, from Grove to the Bridge over the Wichita Drainage Canal and K-42 Highway from Hoover to the I-235 Freeway (2008 Street Rehabilitation Program) 472-84725** in the City of Wichita, Kansas are hereby designated and established as main trafficways, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **Grove, from Bayley to Lincoln; Grove, from Lincoln to Morris; Lincoln, from Grove to the Bridge over the Wichita Drainage Canal and K-42 Highway from Hoover to the I-235 Freeway (2008 Street Rehabilitation Program) 472-84725** as main trafficways in the following particulars:

The design and construction of a roadway as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be **Four Hundred Ninety-Two Thousand Five Hundred Dollars (\$492,500)** exclusive of the cost of interest on borrowed money, with **\$400,000** paid by the City of Wichita and **\$92,500** paid by State Transportation Grants. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the Office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY REBENSTORF, DIRECTOR OF LAW

**City of Wichita  
City Council Meeting  
May 20, 2008**

**TO:** Mayor and City Council Members  
**SUBJECT:** Resolution Amending the Public Hearing on Building Facade Project in the Core Area. (District VI)  
**INITIATED BY:** Office of Urban Development  
**AGENDA:** Consent

---

**Recommendation:** Adopt the resolution and direct its publication.

**Background:** On May 6, 2008 the City Council held a public hearing on the advisability of the facade improvements to the Wichita Executive Center (SC Telecom) facade, approved the project, adopted a resolution authorizing the creation of an improvement district and established a public hearing for May 20, 2008 to formally consider special assessments for these improvements. Due to pressing City Council business, the public hearing and adoption of the special assessment ordinance is being rescheduled to June 3, 2008. In order to meet legal requirements for rescheduling the public hearing, the City Council must amend the resolution setting the hearing date.

**Analysis:** The amendment to the resolution sets the public hearing for June 3, 2008 and directs the City Clerk to publish the notice in the City's official newspaper once, not less than 10 days prior to the date set for the public hearing.

**Financial Considerations:** There is no financial impact to the City resulting from the change in public hearing date.

**Goal Impact:** The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

**Legal Considerations:** State Statutes provide the authority for the City Council to order in public improvement projects, and to use special assessment funding. A formal public hearing is required as part of the approval process. A project was approved and a resolution creating the benefit district was adopted (May 6, 2008).

**Recommendation/Action:** It is recommended that the City Council adopt the resolution amending the date of the public hearing on special assessments for the Wichita Executive Center (SCTelcom Building) façade improvements and authorize the publication of the resolution.

Attachment: Resolution

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION AMENDING THE PUBLIC HEARING DATE ON BUILDING FAÇADE PROJECT IN CORE AREA.**

WHEREAS, pursuant to Resolution No. 08-253 of the City of Wichita, Kansas (the “City”), adopted on May 6, 2008, the Governing Body of the City authorized a public hearing to be held on May 20, 2008, on the proposed maximum assessments for the façade improvements at 125 North Market Street (north of Douglas, west of Market) 472-84678; and

WHEREAS, it is necessary to amend Resolution No. 08-253 to change the date of the public hearing to June 3, 2008;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

SECTION 1. Section 6 of Resolution No. 08-253 is amended to read as follows:

SECTION 6. The approved estimated cost of the Improvements is the estimated cost of the Improvements as set forth in this Resolution. The Finance Director shall prepare a proposed assessment roll for the Improvements which shall set forth the proposed maximum assessment against each lot, piece or parcel of land within the improvement district for the Improvements in the manner set forth in this Resolution based on such estimated cost of the Improvements. The proposed assessment roll shall be maintained on file with the City Clerk and be open for public inspection. Following preparation of the proposed assessment roll, the Governing Body shall hold a public hearing on the proposed maximum assessments on June 3, 2008, or the first regularly scheduled City Council meeting thereafter after compliance with the notice provisions set forth in this paragraph. The City Clerk shall publish notice of the public hearing for the improvement district at least once not less than 10 days prior to the public hearing, and shall mail to the owner of the property liable to pay the assessments, at its last known post office address, a notice of the hearing and a statement of the maximum cost proposed to be assessed all in accordance with K.S.A. 12-6a09.

SECTION 2. This Resolution shall be in full force and effect after its adoption by the Governing Body of the City.

Adopted by the Governing Body of the City of Wichita, Kansas, this 20<sup>th</sup> day of May 2008.

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CARL BREWER, MAYOR

(SEAL)

ATTEST:

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KAREN SUBLETT, CITY CLERK